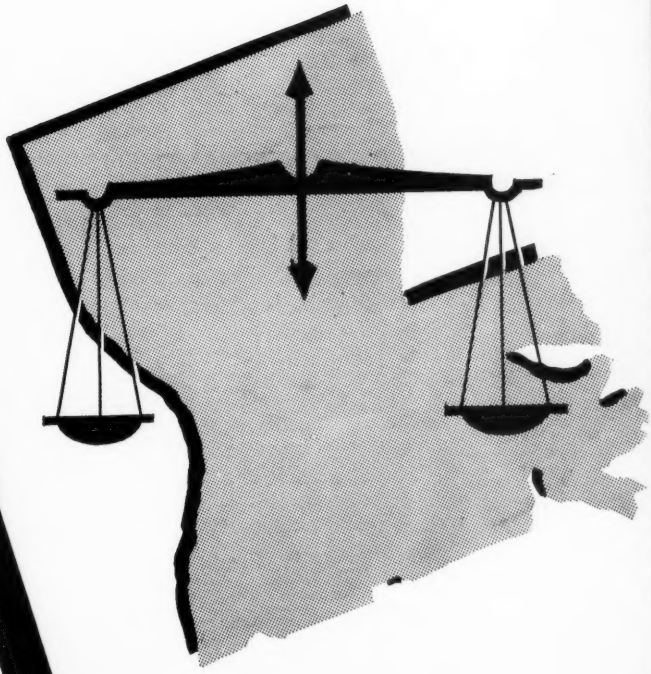
Louisiana Bar JOURNAL



Volume VII
NOVEMBER, 1959
Number 3

Louisiana Bar JOURNAL

Published Quarterly by the

LOUISIANA STATE BAR ASSOCIATION

101 SUPREME COURT BUILDING NEW ORLEANS, LA.

Volume VII NOVEMBER, 1959 Number 3

Contents

SPECIAL FEATURES

DEPARTMENTS

SPECIAL ANNOUNCEMENTS

Entered as Second Class Matter at the Post Office at New Orleans, La., under the Act of March 31, 1879.

President's Page

TO THE MEMBERSHIP:

On May 1, 1960, the nation will observe Law Day U.S.A. by proclamation of President Eisenhower. It is a day set aside to afford the people of America an opportunity to reaffirm their belief in the rule of law. This is not a day set aside for the lawyer but for the entire citizenry, and its purpose is to bring a deeper and more lasting appreciation of the freedom we enjoy under law.

Law Day U.S.A. provides an occasion for us who cherish freedom under law to emphasize the contrast between freedom and the dignity of man under the rule of law as administered by an independent judiciary, and the deprivation of human rights and freedom under a rule of force, fear, and tyranny.

I urge you, through your local Bar Associations, to join with the Committee on Public Relations of the Louisiana State Bar Association and with the American Bar Association to make May 1, 1960, a memorable day in Louisiana.

You should have your local Bar to have the mayors in your respective towns and cities issue proclamations declaring May 1 as Law Day U.S.A.

You should contact the program directors of the radio and television stations within your area. They welcome public affairs programs of genuine public interest. And what can afford more public interest than the preservation of our way of life under law!

Law Day U.S.A. falls on Sunday this year. The clergymen of your respective churches, recognizing the closeness of the religion-law relationship, would be inspired to use the occasion as a sermon subject if brought to their attention.

A Law Day U.S.A. manual will be available to you for 10c a copy, obtainable from the American Bar Association, Law Day U.S.A. Observance, 1155 East 60th Street, Chicago 37, Illinois. This manual is designed for use by school officials, civic organizations, clergymen, etc., to stimulate interest in the observance of Law Day U.S.A. Your interest and efforts are solicited to participate in this occasion.

Sincerely,

F. A. Blanche,
President.

"The Role and Responsibility of Local Bar Associations in the Selection of Judicial Candidates"

by Ben R. Miller

It is a coincidence that along with our President Fred A. Blanche, Sr., our Judicial Administrator, Richard R. Knight, and a member of our Board of Governors, Professor George Pugh, I attended a National Conference on Judicial Selection and Court Administration in Chicago, November 22-24, 1959. This conference was sponsored by the American Judicature Society, the Institute of Judicial Administration, Inc., and the American Bar Association.

There were seven topics discussed:

1. "How Should Judges be Selected?"
2. "Making the Existing State Selection Systems work."
3. "Problems of Federal Judicial Selection."
4. "Judicial Tenure and Retirement."
5. "Discipline and Removal of Judges."
6. "Effective Use of Judicial Manpower."
7. "Action Programs to Achieve Reform."

In all discussions, the need for active, vigilant and militant bar associations at all levels was conceded.

The role of the organized bar in "Making the Existing State Selection Systems Work" is of common interest in all the states, though the systems and the problems vary.

These are some general ideas:

1.

A Code of Judicial Ethics to announce the standard of conduct expected of all candidates for judicial office, including of course incumbent judges seeking re-election or promotion, would be an excellent starting point for our discussion.

The bar can and should press for a complete Code of Judicial Ethics to be promulgated by the Supreme Court, under its inherent powers of discipline over both attorneys and judges. Louisiana has lagged behind in the movement for a Code of Judicial Ethics, enforced by appropriate sanctions. We know of course one is under consideration. It should be promptly completed and adopted. Nationwide, while but 13 of the states had such codes in 1953, there are now some 23 states which have them.

Meanwhile, the state association and the local and district associations could promulgate a code of conduct for judicial elections in their respective areas, even though it would have no sanction save lawyer and public sentiment. These local codes could go beyond mere principles and seek to devise methods of securing agreement of the candidates on specific details

Address given by Mr. Miller, Baton Rouge, at a program sponsored by the Section on Local Bar Organizations during the Mid-Winter meeting in Baton Rouge.

of the campaign such as: use and frequency of the advertising media, and maximum expenditures to be permitted. The local pressure of lawyer and public sentiment against those who wouldn't accept the code, or abide by it, would be significant. I have in fact suggested to the Board of Governors this idea, even language, as follows:

"CODE OF CONDUCT FOR JUDICIAL ELECTIONS"

Preamble

A candidate for judicial position should not make or suffer others to make for him, promises of conduct in office which appeal to the cupidity or prejudices of the electorate; he should not announce in advance his conclusion of law on disputed issues to secure class support, and he should do nothing while a candidate to create the impression that if chosen, he will administer his office with bias, partiality or improper discrimination.

If a judge becomes a candidate for re-election or for another judicial office, he should refrain from all conduct which might tend to arouse reasonable suspicion that he is using the power or prestige of his present judicial position to promote his candidacy.

He should not permit others to do anything in behalf of his candidacy which would reasonably lead to such suspicion.

Judicial elections should entail but modest expenses by the candidate or by others in his behalf. There should be no[1] dodgers or posters; nor any[1] material distributed by hand or by mail other than small dignified cards, showing the candidate and giving brief information as to his background and qualifications, and to be either handed out only at the polls or by no more than a single mailing to the electorate. Candidates are urged to agree, however, against the use of any such mailing.

Particularized

A. All Candidates for a judicial position should meet t o g e t h e r promptly after the date for qualifying has expired[2] so as to themselves agree both with respect to the first and second primaries — if there be one:

(1) On the maximum number and duration of television and radio programs any candidate will himself have, or permit others to have on his behalf;

(2) On the maximum number and extent, as well as permitted character, of all advertisements in each of the respective advertising media, which any candidate will himself have, or permit others to have on his behalf;

(3) On the maximum number and extent, as well as permitted character, of all personal appearances before clubs or organizations or at announced meetings, by any candidate or any one in his behalf;

(4) On the m a x i m u m total amount of money, or the equivalent of money in services, ma-

[1] Perhaps this should be "few if any".

[2] Perhaps this should read "when they first make public announcement of their intention to be a candidate."

terials, or supplies, a candidate will himself spend or furnish, or permit others to spend or furnish on his behalf, in the first primary as well as in the second primary if there be one;

(5) On the form of, and time for furnishing, an affidavit which each will furnish each other as to such expenditures by them or by others on their behalf in money, or the equivalent of money in services, materials or supplies.

B. Should the candidates not be able to unanimously so agree to these particularized matters and things, the agreement of a majority thereof shall nonetheless constitute the particularized code for the primary elections involved when approved by ————————.[3]

C. Due notice of the code and its contents shall be given to the particular electorate by the Louisiana State Bar Association.[4] And factual notice of any violations of the code shall also be so given.

The Committee on Selection of Judicial Candidates has this under consideration.

2.

Let us assume, now, that an election is approaching for which an incumbent is not seeking re-election, or a vacancy has occurred which is to be filled for the remaining term by gubernatorial appointment. The associations most directly affected have the responsibility, it seems to me, to urge the best qualified of those who would be interested to seek the office. The electorate and the governor, as the case may be, should be informed of the considered opinion of those who best know the qualifications of such a panel — their fellow lawyers. This opinion should be as expressed at a secret ballot and in advance of the date for qualifying so as to be an incentive for the exceptionally well qualified person to be willing to become a candidate. All who wished to be included in the balloting should of course be permitted to do so. After the date for qualifying has expired there should then be another such secret ballot on all who in fact did qualify. These ballots should not be considered as a popularity test. To discourage them from being so treated, it would appear best to have the ballot call for expression as to whether the person is "not qualified", "qualified", or "exceptionally well qualified" — with perhaps some explanation of qualities to be taken into consideration. The form of ballot and explanatory remarks, used by the Dade County (Miami) Florida Bar Association, to be shortly commented upon, could be adopted to this use.

3.

When an incumbent is running for re-election, it is my own opinion that the secret ballot of the association should be first only on the incumbent and if 2/3 of those

[3] Suggested source of approval: (1) local association if only district court position; (2) Board of Governors or of an authorized committee of it or of the House of Delegates; (3) the judicial council; (4) the Supreme Court (in election other than for the Supreme Court).

[4] Or the particular association involved.

voting on the single question of "Is Judge John Doe qualified for the office he now holds and for which he seeks re-election?", the association as an organization should support his re-election. It might be well, therefore, for the subsequent ballot on the actual candidates opposing him be limited to two ratings only — "not qualified" and "qualified" so that the association could oppose the "unqualified" and support the "qualified" incumbent without any apparent inconsistency which might otherwise exist if the rating "exceptionally well qualified" was included on this ballot. The upper limits such as "well qualified" or "exceptionally well qualified" are the goals for initial election or appointment. But incumbent judges are entitled to remain in office if they remain "qualified". Assurance that such support will be given will encourage the best qualified men to run for office where the incumbent is either not running or has been voted "not qualified" at such a ballot. Such a policy of organized support of the bar for the "qualified" incumbent will, moreover, encourage his removal from factional politics upon going on the bench.

In any event, so-called "lawyers committees for the election (or re-election) of John Doe", whereby individual lawyers are solicited to, or do, join to support a particular candidate, should be discouraged. To the extent possible, participation of lawyers on behalf of candidates should be through the particular association, otherwise the impartiality of the successful candidate might be questioned.

4.

I know the problems in the small bar or in the district elections where some candidate may be from a large bar and others from distant or small bars. If a local association in its balloting includes lawyers from outside the area the ballot should suggest that unless the voter knows a particular person on the ballot well enough to intelligently rate him, to so indicate in an appropriate box for such comment. This, by the way, should perhaps be done in a city as large as New Orleans. The comments by the association on the results of the ballots should give adequate and fair treatment to those in this category. In the small bars balloting would appear not only inadvisable from the standpoint of the few lawyers involved, but not needed to inform the public — who would personally know the individuals.

5.

The bar has the obligation to see to it that judges serve not only with integrity but with diligence, dispatch and courtesy. You might be interested in the novel method to that end used by the Dade County (Miami) Florida Bar Association. It conducts a periodic secret poll on its sitting judges. A similar poll on the eve of judicial elections has been conducted for some 26 years by the Cleveland bar. The Chicago bar has used a similar poll for years too, and Memphis has just recently instituted the plan. While this poll is generally conducted, so I understand, only on the eve of elections it has been suggested that periodic use of such a

secret poll of the members of the state association as to members of the Supreme Court and of the members of the particular judicial district associations in the case of the Courts of Appeal and district judges would be helpful to the bench and to the bar.

Judges earning the continued confidence of the bar in their integrity, legal ability, judicial temperament and diligence would not only have the satisfaction of knowing of the high regard in which they are held by their fellow lawyers, but opposition for re-election would be early discouraged. On the other hand, if by this secret vote a judge is reproved by those best informed and able to evaluate these essential qualities for the honor which has been bestowed on him the result will also be wholesome. For if it be a reproof of a minor failing the judge thus reminded would no doubt promptly remedy it. But if it be of a serious nature, a loss of confidence in the integrity of the judge, the judiciary itself would no doubt follow such a mandate to investigate and either clear up misunderstandings or discipline their brother judge whose conduct may have occasioned such an opinion by the bar.

One such form of secret ballot reads:

Answer the following questions by giving a numerical rating in the proper space under the name of each judge concerning whom you wish to reply.

Judge_____

1. Have you confidence in his integrity?
   (Honesty, independence, courage)

   Rating (0 to 50)
   _____points
   (If no opinion, put an X on the above rating line)

2. In what degree does he possess legal ability?
   (Knowledge, experience, intelligence)

   Rating (0 to 20)
   _____points
   (If no opinion, put an X on the above rating line)

3. In what degree does he possess judicial temperament?
   (Impartiality, open-mindedness, patience, courtesy, dignity)

   Rating (0 to 20)
   _____points
   (If no opinion, put an X on the above rating line)

4. How diligent is he in the dispatch of business?
   (Industry, attentiveness, punctuality)

   Rating (0 to 10)
   _____points
   (If no opinion, put an X on the above rating line)

"NOTICE TO MEMBERS"

"It is entirely possible that you may not have individual knowledge on one or more of the questions pertaining to each judge. If so, simply put an X in the rating box of that question; otherwise, please give a numerical rating to each question within the point limits as shown in the questionnaire.

You will note that each of the four questions for rating has a numerical maximum value, the total of the four being a maximum of 100 points. It is considered that, if all questions are answered, a judge who receives a total of 90 to 100 points would be exceptionally well qualified from 75 to 90 points as qualified; and less than 75 points as unqualified. If you do not rate a judge on all four questions, he will not be prejudiced, as the ratings on each question will be averaged separately among those expressing an opinion on such question." (See ballot form on preceding page.)

6.

So far we have been considering the role of the bar with respect to state court judges. Equally important is the need for the organized bar to concern itself with the selection of the federal judiciary. At the Los Angeles meeting of the ABA in August, 1958, the following resolutions were adopted by its House of Delegates, by an overwhelming vote and after extended debate:

"Judicial appointments should be completely removed from the area of political patronage and made only from those lawyers and judges, irrespective of party affiliation and political consideration, who possess the highest qualifications.

"Suggestions for nominations should originate in an independent commission established as an agency of the President, to advise with the President on appointments, and to receive from outside sources and from all segments of the organized bar, suggestions of names of persons deemed highly qualified for appointment as judges in their respective jurisdictions.

"The 'nominations' of all persons to serve as members of the federal judiciary should rest solely in the President of the United States; and the United States Senators in a spirit of unselfish public service should restrict themselves to their constitutional duty of conducting thorough investigations, and expressing their considered judgment, on the qualifications of the nominees.

"To avoid any suggestion of partisanship and to make the courts truly nonpartisan or bipartisan, it is desirable that there should be some recognition of a general principle that a substantial percentage of the members of any federal court should be from the ranks of a party other than that of the President who is to make the appointment."

The second of this series of resolutions is in contemplation, of course, that the office of the attorney general, the chief litigant in

the federal courts, should not continue to exert a significant influence over the selection and promotion of judges to the courts in which it is the chief litigant. But only a militant bar at all levels can secure acceptance of these principles by a President, the senators, the attorney general and the party chairman. Meanwhile, the bar associations can and should do this:

Whenever a vacancy or new federal judgeship is in the offing, those best qualified, irrespective of political or partisan affiliation and activity, should be encouraged to permit their names to be voted upon by the particular local associations in the district or division entitled to the prospective appointment; and in case of a position on the circuit court of appeals to the members of the bar of the state entitled to the appointment. All who wanted to be entered in the polls should be permitted, of course, to do so. The interested senators and the attorney general (and the state chairman of the party in power if both senators are of a party other than the President) should be publicly urged to await the outcome of such a secret ballot. They should be urged also to agree that before they submit a name other than one reported "well qualified" (as contrasted to merely "qualified") by the consensus of opinion in this secret ballot, they would submit the other name to such a secret ballot and not seek his appointment unless he too by a consensus of opinion was voted to be "**well** qualified". Consideration should be given to pushing this standard up to "**exceptionally** well qualified". Appropriate publicity should be given to the facts — whatever they be. The effect, or sanction, to flow from such procedure will be in direct ratio to the confidence and respect of the public which these associations will have earned in their area.

7.

Finally comes the most difficult of all the roles the organized bar should play in the selection of judges: to courageously press for the proper discipline of the unworthy. The ultimate responsibility of cleaning its own house lies with the judiciary itself — to be exercised through the highest court of the state. But a vigorous and militant bar is needed to insist that this be done. The responsibility of the bar in this respect cannot, and should not, be shirked — unpleasant as it might be. We cannot perform our other obligations of protecting the courts as institutions and of protecting individual judges from unwarranted abuse, unless we insist that those occupying these positions of great honor and trust merit the respect and confidence bestowed on them and the office they occupy.

Comments on Louisiana Law Partnership Agreements

By Murray F. Cleveland

It is startling that so many Louisiana lawyers, otherwise competent and careful, are practicing law as partners without a current written partnership agreement. Many of them feel that a verbal understanding is entirely sufficient for purposes of handling office policy and management problems. However, such verbal agreements are hopelessly inadequate with respect to vitally important tax consequences and unanswered questions, particularly those arising upon the withdrawal, retirement, expulsion or death of one of the partners.

The ability of one partner to get along with the others is no guarantee that his widow and minor children can continue the pleasant relationship. Nor does it satisfy the diligent revenue agent who is intent on collecting the maximum federal estate tax. Furthermore, a written agreement covering situations which are likely to arise in the course of everyday practice can be quite useful in avoiding misunderstandings and disagreements that may otherwise develop.

Of course, the proportionate interest of the partner in profits and losses, as established by the agreement, determines the portion of the firm's income (and any item of gain or loss) which each partner must report.[1] The agreement should also provide the method for determining the amounts to be paid to a withdrawing, disabled, expelled or retiring partner, and to the estate of a deceased partner, as well as the methods of payment. If the agreement is properly drawn, it will establish the value of the interest of each partner in the partnership for purposes of the federal estate tax and state inheritance taxes, and will prevent the inclusion in the estate of such items as contingent fees[2], the wills (of living persons) in which the firm has been named as attorney, and other unrealized and potential receivables.

Address presented by Mr. Cleveland, New Orleans, at a program sponsored by the Committee on Continuing Professional Education during the Mid-Winter meeting in Baton Rouge. (A sample partnership agreement follows the address.)

1 Int. Rev. Code of 1954, Sec. 704; Reg. Sec. 1.704-1.

2 Rev. Rul, 55-123, 1955 CB-1, p. 443 held that the portion of contingent fees which the representatives of the deceased could have collected on a quantum meruit basis was includible in the estate of the decedent. However, in the Estate of Joseph Nemerov, 15 TCM 855 (1956), it was held that as to four wholly contingent fee arrangements, at the time of the decedent's death the value of the decedent's services could not have been determined and could not have been recovered on a quantum meruit basis; therefore, no value therefor was includible in the estate. In the absence of a proper evaluation provision the surviving partners will undoubtedly be faced with the extremely difficult and time-consuming task of reviewing and evaluating every active file in the office, for estate and inheritance tax purposes.

Every Louisiana partnership ordinarily terminates on the death of a partner.[3] Hence, if this result is not intended, a stipulation to the contrary must be included in the partnership agreement.

Article 2882 provides that a stipulation for the continuation of a partnership between the heirs of a deceased partner and the surviving partners, or between the surviving partners only, shall be observed. However, in the case of *Louisiana Bank v. Kenner's Succession,* 1 La. 384 (1830), it was held that such a stipulation was not binding on the heirs of the deceased partner, under the laws prevailing at the time of the adoption of the Code of 1808; thus the court refused to give effect to a Code Article similar to Article 2882 of the Code of 1870, saying:

> "Heirs are bound to discharge the obligations of their ancestors, contracted by the latter while living, to the extent of the property which they inherit. But the power of an ancestor (particularly according to our laws, relating to forced heirs) to confer a right on other persons to make contracts after his death, by which his heirs should be bound even in reference to property inherited, to say the least of it, is very doubtful on general principles of law and justice."

The stipulation as to the continuation of the partnership must be a positive one, since in the case of *Hart & Co. v. Anger & Nicol,* 38 La. Ann. 341 (1886) it was held that a stipulation that the continuation was to be optional with the survivors was not binding on the heirs of the deceased partner.

Entity Theory

Under the entity theory of partnership which prevails in Louisiana,[4] the partners are not considered the owners of the partnership property. The partnership is the owner; the respective partners are the owners of the residium which may be left from the entire partnership property after the obligations of the partnership are discharged.[5]

In view of this principle, on the dissolution of a community which has as one of its assets an interest in a partnership, it would appear that the joint owners of this interest would not have any claim to partnership assets.[6]

At common law it seems to be clear that the partners may make an agreement whereby the survivors have the privilege of purchasing a deceased partner's interest in the partnership.[7]

---

3 La. Civ. Code of 1870, Arts. 2880-2882; see *Henderson's Estate v. Comm'r.* 155 F. 2d 310 (5th Cir. 1946).

4 But see: Scott, *Taxation of Partnerships, Estates and Trusts Under the Louisiana Income Tax Regulations,*" 8th Annual Tulane Tax Institute (1958) p. 681, at 691, for examples of the lack of the entity concept in taxation of partnerships; and *State v. Patterson,* 232 La. 931, 95 So. 2d 608 (1957) in which the court did not give effect to the entity concept.

5 *Smith v. McMicken,* 3 La. Ann. 319 (1848); see *Toelke v. Toelke,* 153 La. 697, 96 So. 536 (1923).

6 But see: *Malady v. Malady,* 25 La. Ann. 448 (1873).

7 40 Am. Juris. 346, Partnership, Sec. 310, 1 ALR 2d 1265; Barrett and Seago, *Partners and Partnerships,* Vol. 2, p. 289.

Since the husband, as head and master of the community, is authorized by Louisiana Civil Code Article 2404 to administer, encumber, and alienate the community assets, it would not appear essential in Louisiana to obtain the consent of the wives of the partners to the terms of the partnership agreement. However, it has been suggested that at least two questions may arise in determining the validity of a buy and sell agreement under Louisiana law. The first question is whether the agreement is (a) a conventional obligation or (b) an agreement personal to the decedent. The second question is whether the agreement is, in effect, a stipulation with regard to a succession not yet opened and, therefore, invalid in Louisiana.[8]

In neither of two Louisiana cases interpreting partnership buy and sell agreements was the buy and sell clause questioned. In *Succession of Conway*, 215 La. 819, 41 So. 2d 729 (1949), the court held that good will should be taken into account in arriving at the value of partnership assets. In answering the widow's contention that she was entitled to participate in the profits earned subsequent to the death of her husband, the court said:

> "The partners as individuals did not own the partnership property; it belonged to the partnership, which had the control and administration thereof. The widow had only the right to receive her community share in the property as of the date of her husband's death, and had no right to participate in the business after his death. Therefore, under these facts and circumstances, the agreement did not divest the surviving spouse of any of her vested rights in her share of the community."

In *Succession of Jurisich*, 224 La. 325, 69 So. 2d 361 (1953) the right of the survivor to purchase the deceased partner's interest in the partnership at book value in accordance with the partnership agreement was upheld. In discussing the administrator's argument that good will should have been included the court said:

> "There is nothing inequitable, however, in the provision of the partnership agreement which operated to exclude good will by giving to the surviving partner, upon the death of the other, the right and privilege of buying the interest of the deceased at its *then book value.* At the time the partners entered into the partnership agreement, neither gained any advantage by its insertion, as neither had any way of knowing which partner would die first. This reciprocal clause was for the benefit of both and obviously was inserted so that upon the death of either the survivor might purchase for an easily ascertainable amount the interest of the deceased and thus continue to operate the business without the delays and compli-

[8] See 26 Tulane Law Review, 119 at 142, 143 (1952).

cations attendant upon appraisal and valuation of intangible assets."

In any event, the agreement should cover, directly or indirectly, the question of whether and to what extent good will is to be included in evaluating a partnership interest. One of the simplest and most effective methods of evaluating a partnership interest is to stipulate the values in the agreement and include a provision for modifying the figures periodically, such as semi-annually or annually.

Provisions of the Internal Revenue Code of 1954 relating to partners and partnerships are to be found in sub-chapter K of Chapter 1, Sec. 701 et seq., and numerous references are made therein to "the partnership agreement." If "the partnership agreement" has not been reduced to writing its provisions will obviously be subject to a considerable amount of conjecture.

Upon formation of a new partnership, the taxable year must be that of its principal partners, or a calendar year, in the absence of a business purpose for any other taxable year.[9]

The contribution of capital to a professional partnership will not generally present any tax problems. However, it might be well to point out that while it is true that no gain or loss is recognized upon the contribution of capital to the partnership,[10] if property encumbered by an indebtedness which exceeds the basis of the property in the hands of its owner is contributed to a partnership, the contributing partner will realize income because of the liability that is treated as assumed by the partnership.[11]

Property Distribution

Upon the distribution of partnership property, there is no gain or loss to the partnership. However, if a distribution in money[12] exceeds the distributee - partner's basis for his interest in the partnership, gain is recognized to the partner in the amount of such excess. This gain will generally receive capital gains treatment.[13] The portion of a distribution in liquidation of a partner's interest which is attributable to unrealized receivables is considered gain from the sale of a noncapital asset.[14] Therefore, a withdrawing or retiring partner and the estate of a deceased partner would benefit by having the agreement specify that the amounts paid for the liquidated or purchased interest would be for capital assets including good will,[15] rather than for unrealized receivables, which produce ordinary income. However, under such an agreement the purchase price of

---

9 Int. Rev. Code of 1954, Sec. 706 (b) (1); Reg. Sec. 1.706-1 (b).

10 Int. Rev. Code of 1954, Sec. 721.

11 Int. Rev. Code of 1954, Sec. 752; Reg. Sec. 1.752-1 (c).

12 Gains on the distribution of property are not recognized: IRC Sec. 732 provides the basis rules for distributed property.

13 Int. Rev. Code of 1954, Sec. 731.

14 Int. Rev. Code of 1954, Sec. 751 (a).

15 Int. Rev. Code of 1954, Sec. 736 (b).

the good will would not be deductible by the continuing partners, whereas the payments for unrealized receivables would reduce the income reportable by the continuing partners.[16]

If the interest of the retiring partner is sold, the seller will be taxed in the year of the sale on the entire gain realized, unless the sale qualifies for the installment method of reporting under Sec. 453 of the Internal Revenue Code. The amount realized in excess of the partner's basis will be capital gain except for the amount attributable to unrealized receivables, which will be ordinary income.[17] Since the taxable year as to the selling or retiring partner closes upon the partner's disposition of his entire interest, such a transfer may result in bunching-of-income tax problems.[18] Furthermore, a sale of a partnership interest may result in termination of the partnership and the close of its tax year under the rule that the partnership is considered terminated if, within any 12-month period, there is a sale or exchange of 50% or more of the total interest in partnership capital and profits. However, dispositions of interests in a partnership by gift, inheritance, or liquidation are not sales or exchanges under this provision.[19]

A provision for making periodic payments to the deceased partner's estate or to a retired partner based on that partner's share of income earned as of the date of death or retirement would result in the inclusion of the value of this right in the estate of the partner. Likewise, a provision for payment out of income earned subsequent to the date of death or retirement has resulted in the inclusion of the right to this income in the gross estate of the decedent and its taxation as "income in respect of a decedent".[20]

One reason that cross insurance plans among the partners were used formerly was the possibility that the alternative method of having the partnership insure the partners would result in the insurance proceeds ultimately being taxed to the surviving partners as ordinary income when they sold or liquidated their interest in the partnership. However, Sec. 705 (a) (1) (B) of the 1954 Code now provides that a partner's basis is increased by his share of tax exempt income

16 Reg. Sec. 1.736-1 (a) (3), (4).

17 Int. Rev. Code of 1954, Sec. 741.

18 Reg. Sec. 1.706-1 (c).

19 Int. Rev. Code of 1954, Sec. 708; Reg. Sec. 1.708-1; Little, "Tax Planning for Professional Partnerships," 35 Taxes 993 (1957).

20 *Riegelman's Estate v. Comm'r.* 253 F. 2d 315 (2d Cir. 1958) (explained and distinguished in *Mandel v. Sturr*, 266 F. 2d 321 (2d Cir. 1959). It might be contended that payments to the estate of a deceased partner of income earned subsequent to his death would violate the provisions of Article 14, Section 34 of the charter of the Louisiana Bar Association which prohibits division of fees with persons other than lawyers. Compare Opinion No. 266 of the American Bar Association's Committee on Professional Ethics and Grievances discussed in the 1957 Section of Taxation, Program and Committee Reports, pages 43 and 44. But the writer does not share this view, particularly where the partnership income earned after death is simply a measure of the payments to be made to the estate of a deceased partner.

received by the partnership. The elimination of the payment of premiums test has reduced the risk that insurance owned by the partnership will be includible in the estate of the deceased partner. A provision in the partnership agreement that the decedent's rights in the policy are limited to his proportionate share of the cash surrender value as of the date of his death will further minimize the estate tax risk in having the partnership own the policies.

Conclusion

The foregoing comments and the accompanying law partnership agreement form are intended to serve as a practical tool and guide for the average small and medium sized law firm practicing in Louisiana. No effort has been made to cover the subject exhaustively, taxwise or otherwise; and individual circumstances and problems will undoubtedly require substantial modifications in many cases. Many special tax problems, such as the computation of the basis of the partners' interest in the partnership, various elections that are available to some partnerships, collapsible partnership problems, technical differences between sale and liquidation of partnership interests, fiscal versus calendar years, etc., are beyond the scope of this presentation.

The message intended is that almost any form of current written partnership agreement is better than none. The lawyer who leaves entirely to accident or chance what he should do on purpose is unfair to his partners, his family and himself. The following form may not be adequate for all Louisiana lawyers, but it will serve as a starting point and will solve many of the problems that are left unsolved by your unwritten, obsolete or nonexistent partnership agreement.

The writer acknowledges with appreciation the invaluable assistance of Mrs. Helene McG. Walker, CPA, LLB, MBA, of the firm of Henican, James & Cleveland, in the preparation of this material.

BIBLIOGRAPHY

American Bar Association Bulletin, "Section of Taxation" (Jan. 1957)

American Law Institute, *Law Office Manual* (1956 and 1959 Editions)

Barrett and Seago, *Partners and Partnerships, Law and Taxation, 1956,* The Michie Company, Virginia (1956)

Boughner, Jackson L., LLB, CPA, "Taxation of Partnerships," 6 Journal of Taxation 79

Little, Paul, "Tax Planning for Professional Partnerships," 35 Taxes 993 (1957)

Mertens, *Law of Federal Income Taxation,* Vol. 6, Chapter 35, Callaghan & Company, Chicago

O'Neal, F. Hodge, "An Appraisal of the Louisiana Law of Partnership," 9 La. L. Rev. 307, 450 (1949)

Peck, Austin, Jr., "How to Draft a Professional Partnership Agreement," 8th Tax Institute, University of Southern California School of Law, p. 109 (1956)

Rabkin & Johnson, *Current Legal Forms with Tax Analysis,* Vol. 1, Matthew Bender & Company, Incorporated, New York (1959)

Rabkin & Johnson, *Federal Income, Gift and Estate Taxation,* Matthew Bender & Company, Incorporated, New York, (1954) Vol. 1, Chapter 16

Samuels, David L., "Funding Partnership Buy-an-Sell Agreements with Life Insurance," 35 Taxes 857 (1957)

Scott, Everett R., "Taxation of Partnerships, Estates and Trusts Under the Louisiana Income Tax Regulations," Eighth Annual Tulane Tax Institute 681 (1958), The Bobbs Merrill Company, Inc., Indianapolis (1959)

Simon, S. Gerald, "Louisiana Partnership Planning," Sixth Annual Tulane Tax Institute 647 (1956). The Bobbs-Merrill Co., Inc., Indianapolis, 1957

Wood, William B., "Tax Problems of Partnerships," The Monthly Digest of Tax Articles, September, (1959) p. 1 (condensed from 107 Journal of Accountancy p. 33)

PARTNERSHIP AGREEMENT

This agreement is made on this 12th day of December, 1959, by and among ALPHEUS ALPHA, ALLISON BETA, RAYMOND GAMMA, and RIVERS DELTA, all of the City of Baton Rouge, State of Louisiana.

The parties hereto have been and are engaged in the practice of law as a partnership, and desire to continue the existence of the partnership, under the following terms and conditions:

ARTICLE I

Name

The name of the partnership shall be:

ALPHA, BETA, GAMMA & DELTA

If any member of the partnership shall retire from the practice of law or shall die, his name, in the discretion of the other partners, shall be continued as part of the firm name, without any obligation therefor to such retired partner or to the estate of such deceased partner, except that if a son of any retired or deceased partner shall practice law as a licensed attorney in this State other than in the office of the remaining partners, the use of the retired or deceased partner's name shall be discontinued within four months after receipt of a written request therefor from said son.

ARTICLE II

Principal Place of Business

The principal office of the partnership is to be located at 1000 Lawyers Building, Baton Rouge, Louisiana, or at such other place in Louisiana as the parties may agree.

ARTICLE III

Purpose

The parties hereto shall, as partners, engage in the general practice of law in the State of Louisi-

ana in accordance with the Canons of Professional Ethics as adopted by the American Bar Association, and in accordance with all rules of practice and other regulations adopted by any Court or Administrative Agency before which any partner or associate is admitted to practice.

ARTICLE IV

Duration

The partnership shall continue from the date hereof until terminated in the manner hereinafter provided.

ARTICLE V

Capital Contributions, Accounts and Withdrawals

A. The capital of the partnership shall consist of the following items:

(a) Office equipment, furniture, library, and supplies, as specifically enumerated in Schedule A, attached hereto and made part hereof, to be contributed by Alpha and Beta in equal shares. It is agreed that the aggregate value of said items is $6,000.00.

(b) $2,000.00 in cash to be contributed by Gamma.

(c) $2.000.00 in cash to be contributed by Delta.

B. Except by unanimous consent or on dissolution, capital contributions shall not be subject to withdrawal. Whenever any additional capital shall be required, it shall be contributed by the partners in the proportions in which they share the profits and losses.

C. Interest shall not be paid on the initial capital contribution, or on any subsequent contributions of capital.

D. On the death, expulsion, retirement, or withdrawal of any partner, no allowance shall be made to him or his representative with respect to the value of the good will of the firm. The partners agree that good will shall not be considered a part of the assets of the partnership and no entry thereof shall be made on the books of account of the partnership.

ARTICLE VI

Profits and Losses

A. The net profits or net losses of the partnership shall be distributable or chargeable, as the case may be, to each of the partners as follows:

Alpha	30%
Beta	30%
Gamma	20%
Delta	20%

B. The books of account for the partnership shall be kept on the cash receipts and disbursements method of accounting, on a calendar year basis. Each partner or his representative shall at all times have access to and may inspect and copy any and all such records.

C. An individual income account shall be maintained for each partner. Profits or losses shall be entered in the individual income accounts as soon as practicable after the close of each calendar year.

D. The net profits of the partnership shall be computed by deducting from gross income received, the total operating expenses. The partners are required to take into account separately in their individual income tax returns and personally pay the following

items, which shall not be treated as expenses of the partnership: (1) automobile and transportation expenses, (2) charitable contributions, and (3) professional entertainment.

E. No partner shall receive a salary for services rendered. Each partner shall have the right to draw against anticipated earnings (in monthly installments) an amount not in excess of 85% of his earnings for the preceding year. In no event shall a partner's withdrawals exceed the distributive share of net profits to which he is entitled. Each partner shall have the right at the end of any calendar year to withdraw the balance of his share of the partnership profits for that year. If a partner's withdrawals have been in excess of his distributive share of net profits, he shall refund the amount of overpayment within 60 days from the time of the determination of the overpayment.

ARTICLE VII
Policies and Management

A. In the determination of office policies and in the general conduct of the partnership activities, all partners shall be consulted as far as practicable, and the advice and opinions of all partners shall be obtained. Each partner shall have an equal voice in management and policy determination and each partner shall devote his entire time to partnership business. No partner shall, directly or indirectly, engage in any other business or occupation without the consent of the other partners, provided, however, that nothing herein contained shall prohibit the activity of any partner in investing or trading in securities, commodities, real estate, or other forms of investment, for his own benefit.

B. No partner may, without the consent of the other partners:

1. Borrow or lend money, or make, deliver, guarantee or accept any commercial paper for or on behalf of the partnership.
2. Execute any mortgage, bond, or lease, or purchase or contract to purchase, or sell or contract to sell, any property on behalf of the partnership.
3. Assign, mortgage, or sell his share in the partnership or in its capital assets or property, or enter into any agreement as a result of which any person shall become interested with him in the partnership.
4. Endorse any note or act as an accommodation party or otherwise become surety for any person.

C. All funds belonging to or held by the partnership are to be deposited in its name in such checking accounts as shall be determined by the partners. At least one account shall be designated "Trust Account", and all funds in the hands of the partnership but not belonging to it shall be deposited in said special account. All withdrawals shall be made upon checks signed by any partner, except that the signature of any two partners shall be required on checks drawn on the Trust Account.

D. Each partner shall be entitled to a two week vacation each year, but there shall be no carry-over of unused vacations.

E. With the unanimous consent of the partners, a new partner may be admitted to the partnership during the existence of this partnership agreement. The terms upon which such new partner shall be admitted shall be stated by appropriate amendment to this agreement, to be endorsed hereon at the time of the admission of said new partner to this partnership.

ARTICLE VIII

Voluntary Withdrawal of a Partner

A. Any partner desiring to withdraw from the partnership shall serve upon the other partners at the principal office of the partnership written notice of his intention to withdraw. Such notice shall be served not less than three months nor more than six months prior to the effective date of such partner's withdrawal.

B. The withdrawal of any partner shall have no effect upon the continuance of the partnership business.

C. The value of the withdrawing partner's interest in the partnership shall be the sum of the following:

1. The balance in his Capital Account.
2. The balance in his Income Account, including his share in the earnings of the partnership for the current year to the date of withdrawal, or the close of the month ending prior to the date of withdrawal if that date is other than the last day of a calendar month.
3. The withdrawing partner's interest, based on his profit percentage, in the previously billed unrealized receivables, as of the date of withdrawal or the close of the preceding month if the withdrawal date is other than the last day of a calendar month, less 10% collection charge.

The determination of a partner's interest for any purpose other than upon death, expulsion, retirement, or withdrawal on account of disability shall be computed as provided in this Article.

D. A partner withdrawing voluntarily shall be paid the sum of the first two items within ninety (90) days from the effective date of withdrawal. The amount due in payment of item 3 shall be paid in three semi-annual installments, the first of which shall be due six months after the effective date of withdrawal.

E. A partner withdrawing voluntarily shall be entitled to take with him all papers pertaining to the affairs of those clients whose business he has personally carried on or supervised, unless any such client requests a different disposition of such papers.

F. At the time of such voluntary withdrawal, the partnership shall bill for all services rendered to those clients who elect to continue

with the withdrawing partner, unless the withdrawing partner consents to the deduction of the amount of the bill from payments otherwise required to be made to him in liquidation of his partnership interest.

G. If payment for services in any matter handled for any client who elects to continue with the withdrawing partner is contingent upon r e s u l t s, the withdrawing partner shall account to the other partners for their proportionate shares of the value of the work in process up to the date of withdrawal if and when the withdrawing partner receives payment for such services.

H. No withdrawing partner shall be entitled to a distribution of any of the library, equipment or supplies belonging to the partnership.

ARTICLE IX

Retirement or Death of a Partner

A. Any partner who has reached the age of 65 may retire from the partnership upon sixty days written notice to the other partners.

B. Upon the death of a partner or his retirement after attaining the age of 65, there shall be paid to the retired partner or the estate of the deceased partner the sum of the following amounts:

1. The balance in his Capital Account.
2. The balance in his Income Account.
3. His regular share of partnership profits for the period ending with the last day of the month following the month during which he retired or died, unless it is included in his Income Account.

The total of these amounts shall be paid within 90 days after the date of retirement or death, without interest.

C. In addition to the amounts listed above, and in payment for the retired or deceased partner's interest in unrealized receivables and potential receivables of the firm, there shall be paid to him or his estate, in equal monthly installments, for a period of 60 months, beginning 6 months after the date of death or retirement, an amount aggregating his proportionate share of the sum of $100,000.00, which is the estimated present total value of such unrealized receivables and potential receivables. The amount due shall not bear interest, and with the consent of the retired partner or estate of the deceased partner, may be paid in advance, in whole or in part. At the beginning of each calendar year the partners shall agree upon the total value of such unrealized receivables and potential receivables, if in the opinion of the majority of the partners, the value has changed, and any such new value shall be stipulated on the attached endorsement page.

D. The remaining partners shall be obligated to discharge all partnership debts and obligations existing on the date of death or retirement of a partner.

ARTICLE X

Expulsion of a Partner

A. If any partner shall lose his license to practice law in the State of Louisiana or shall, in the opinion of a majority of the other partners, be guilty of misconduct or be involved in circumstances of such character as to render it impracticable or undesirable for the then partners to carry on the partnership together, the offending partner may be expelled from the partnership, after written notice and a reasonable opportunity to be heard.

B. Within 90 days after the effective date of expulsion, there shall be paid to the expelled partner, or his nominee or representative, the balance in his Capital and Income Accounts, as of the last day of the month preceding the date of expulsion, and within said period the expelled partner shall pay the partnership any debit balance in said accounts.

C. The interest of the expelled partner in the partnership assets, including unrealized receivables, shall cease as of the date of expulsion. He shall thereafter have no rights against the partnership or the remaining partners except to the payment provided for in this Article.

ARTICLE XI

Disability and Military Service of a Partner

A. Disability. If any partner shall become disabled, physically or mentally, his distributive share of partnership profits and losses existing at the time of such disability shall be modified and reduced as follows: (1) No reduction for the first three months of disability; (2) Payment of 50% of the stipulated distributive share for the next six months; and (3) Payment of 25% of the stipulated distributive share for an additional six months. Return to the full time practice of law at any time during said fifteen month period will restore the disabled partner to his full share of partnership profits, commencing with the first month following his resumption of active full time partnership responsibilities. If the disabled partner becomes permanently disabled in the opinion of his personal physician, or if the disabled partner is unable to return to the full time practice of law at the end of said fifteen month period, the active partners may terminate the partnership by notice in writing to the disabled partner or his representative, whereupon the disabled partner shall be entitled to receive, instead of the remainder of the foregoing payments, all payments provided in the Article relative to retirement, as though his retirement had taken place on the date of commencement of permanent disability.

B. Military Service. If any partner should enter the armed services of the United States of America, the partnership shall continue for the period of such military service, except that his distributive share of partnership income shall be reduced, upon his reporting to military duty, to 25% of his average monthly share of partnership profits for the eighteen months preceding the date upon which he reports for duty. Upon his return to prac-

tice and retirement from military service, his full share shall be restored, commencing with the first month following his return to the full time practice of law. If he should fail to return to the practice of law in the partnership within two months after his discharge or retirement from military service the partnership shall terminate, and he shall receive such amounts as are then due him in accordance with the provisions hereinafter made for a voluntary dissolution.

ARTICLE XII

Termination

A. Upon the withdrawal, retirement, expulsion, or death of a partner, this partnership shall thereupon terminate, but a partnership composed of the remaining partners shall immediately commence, subject to all of the terms of this agreement. The interests of the remaining partners in profits and losses shall be adjusted so as to absorb, on a proportionate basis, the former interest of the withdrawing, retiring, expelled, or deceased partner.

B. Unless terminated as herein otherwise provided, the partnership shall continue until dissolved upon demand of any two or more partners. Upon such dissolution, the business of the partnership shall be liquidated forthwith. The assets of the partnership shall be applied or distributed in the following order of priorities:

1. In payment of debts of the partnership to creditors other than partners.
2. In payment of the indebtedness of the partnership to a retired partner, and/or to the estate of a deceased partner.
3. In payment of loans to the partnership, other than amounts reflected in the partners' Income Accounts.
4. In payment of the amounts due the partners as reflected in their Income Accounts.
5. In payment of the Capital Accounts of the partners.

One of the partners shall be elected, by a majority in number of the partners, to serve as Trustee of the dissolved partnership, to collect amounts due on accounts receivable from clients and on unfinished work. Collection of the accounts receivable of the partnership shall be made by the Trustee. After deduction of expenses of collection, if any, he shall distribute the amounts collected to the partners in the proportion of their respective interests in profits or losses of the partnership. Unfinished work shall be completed by the partner who had the major responsibility for the business of that client. For his services in completing such unfinished work, the partner shall be compensated as determined by a majority in number of the partners. The partner who completes the case shall bill the client, deduct the agreed charge for completing the work, and remit the full balance to the Trustee. The Trustee shall distribute to the partners, as soon as practicable, the amounts received by him, provided that such distribution shall be made at least once each month.

ARTICLE XIII

Arbitration

In the event any controversy or claim arising out of this partnership agreement cannot be settled by the partners or their legal representatives, such controversy or claim shall be settled by arbitration in accordance with the then current rules of the American Arbitration Association, and judgment upon the award may be entered in the Nineteenth Judicial District Court for the Parish of East Baton Rouge.

ARTICLE XIV

Insurance

A. The partnership shall purchase policies of life insurance on the life of each of the partners in the following amounts:

Alpha	$30,000.00
Beta	30,000.00
Gamma	20,000.00
Delta	20,000.00
TOTAL	$100,000.00

B. The partnership shall be the owner of and beneficiary under the policy on the life of each insured. The partnership shall have the exclusive right to enjoy and exercise all incidents of ownership in said policies during the lifetime of each insured. The premiums shall be paid by the partnership.

C. Upon the death of a partner, the cash surrender value of all of the policies shall be (or remain) credited to the Capital Accounts of all of the partners, including the deceased partner. The proceeds of the policy on the life of the deceased partner, in excess of the cash surrender value, shall be credited to the Capital Accounts of the surviving partners in their respective proportionate interests in profits and losses, and shall not be included in the determination of the interest of the deceased partner. The estate of the deceased partner shall have no right to or claim against that part of the proceeds of said insurance credited to the surviving partners.

D. A withdrawing, retiring, or expelled partner shall have the right to acquire from the partnership the policy on his life by paying the partnership in cash an amount equal to the cash surrender value thereof on the effective date of withdrawal, retirement or expulsion; provided said right must be exercised within 60 days after said effective date.

ARTICLE XV

Miscellaneous

A. All notices provided for under this agreement shall be in writing and shall be sufficient if sent by certified or registered mail to the last known address of the party to whom such notice is to be given.

B. The paragraph headings used herein are for convenience only and shall not be considered in interpreting this agreement.

C. Whenever the context so requires, the masculine shall include the feminine and neuter and the singular shall include the plural.

D. This agreement shall be governed by the laws of the State of Louisiana and shall be binding upon the parties hereto and upon

their heirs, executors, administrators, and assigns.

E. If any portion of this agreement shall be held to be void or unenforceable, the balance thereof shall, nevertheless, remain in full force and effect.

THIS DONE AND EXECUTED, in quadruplicate original, on the date first above written.

ALPHEUS ALPHA

ALLISON BETA

RAYMOND GAMMA

RIVERS DELTA

Partners

Endorsements to Partnership Agreement of Alpha, Beta, Gamma and Delta, Dated December 12, 1959

Date of Execution_____

The value of the unrealized receivables and potential receivables of the partnership, referred to in Article IX-C, is hereby determined to be _____ Thousand ($) DOLLARS.

RAYMOND GAMMA

RIVERS DELTA

ALPHEUS ALPHA

ALLISON BETA

Richard C. Cadwallader, Baton Rouge, chairman of the LSBA Committee on American Citizenship, is pictured at the Mid-Winter meeting in Baton Rouge presenting a $100 check to Miss Evelyn Queyrouze, winner of the bar's 1959 High School Essay Contest.

Meet Your Board of Governors . . .

Jack L. Simms represents the Eighth Congressional District.

He was awarded his LL.B. from Tulane in 1945. While in law school he was president of the law school student body, secretary of the student council, editor-in-chief of the Tulane Law Review, and a member of Phi Delta Phi, national legal fraternity. He also won membership in the Order of the Coif.

During World War II Mr. Simms served overseas for almost three years as a captain in the Intelligence Division of the Army.

His public service has consisted of the positions of assistant district attorney for the Eleventh Judicial District, general counsel for the Louisiana Department of Highways, and chairman of the Louisiana Board of Tax Appeals.

JACK L. SIMMS

Active in bar association activities, Mr. Simms has been for many years the vice-chairman of the Section on Criminal Law, and arranges the program for the section at the Annual Meetings of the association. He was a member of the original committee on the Louisiana Formulary Annotated, and has been a member of the association's House of Delegates.

He is a member of the American Legion and the Veterans of Foreign Wars; he is past master of his Masonic lodge and is a Shriner. He is a past president of his Lions club, and is presently a district governor of Lions International. Additionally, Mr. Simms is a past president of the Leesville-Vernon Parish Chamber of Commerce and serves on the board of directors of the chamber. He is also active in church work.

Mr. Simms is married to the former Vernis Davis, and they have one son, Jack, Jr. They reside in Leesville, where he practices law.

Leon D. Hubert, Jr., represents the Tulane law faculty on the Board.

Mr. Hubert won his A.B. degree in 1932, and his LL.B. in 1934, from Tulane. A major portion of his professional experience has been devoted to his university. He was acting instructor of law from 1940 to 1942 and again in 1946.

LEON D. HUBERT, JR.

From 1946 to 1953 he was associate professor of law, and in the latter year he was made full professor, which position he holds today.

Mr. Hubert was on active duty with the U. S. Army Air Force from 1942 to 1945. He served as staff judge advocate for the 9th A.A.F., and was Chief of Military Affairs Division in 1944-45. He served in India, Egypt, England, France and Germany, and he is now a Colonel in the U.S.A.F. Reserve.

Mr. Hubert has served as a reporter for the Louisiana Law Institute on the Revised Statutes, and on the project for revision of the Code of Practice, as well as on the project for the revision of the Code of Criminal Procedure. Additionally, he is a member of the legal research staff of the Parolee Rehabilitation Committee.

He held the position of assistant U. S. attorney from 1934 to 1942, and again in 1945 and 1946. From 1954 to 1958 he was District Attorney for the Parish of Orleans.

He is a member of the Louisiana State and New Orleans Bar Association, the American Legion and the St. Thomas More Catholic Lawyers Association.

Mr. Hubert is married to the former May Bamforth of England, and they, with their children Sandra and Vallet, reside in New Orleans.

Herschel N. Knight is the delegate to the Board from the Seventh Congressional District.

He was graduated from L.S.U. with a degree in law in 1949. While at L.S.U. Mr. Knight was a member of Gamma Eta Gamma, legal fra-

HERSCHEL N. KNIGHT

ternity, and Kappa Sigma, social fraternity. He was elected to membership of the L.S.U. Law Review staff, and he was a member of the winning team in moot court competition in 1948.

In 1945 and 1946 Mr. Knight was on active duty with the U.S. Navy, serving as a pharmacist mate.

He is a member of the Louisiana State, American, and Jeff Davis Bar Associations. He holds membership in the National Association of Compensation Claimants Attorneys and in the American Judicature Society.

Mr. Knight has been post commander in the American Legion; leading knight in the Elks; vice-president of Kiwanis; a member of the boards of directors of his local Chamber of Commerce and the Jennings American Legion Hospital. He is active in church affairs and has served as chairman of the Board of Stewards of the First Methodist Church in Jennings.

Since his admission to the bar, Mr. Knight has practiced law in Jennings, and his firm's name is Knight & Knight, his partner being his brother William.

He is married to the former Susie Jo Ludlum of Bastrop, and they have four daughters; they reside in Jennings.

Official Returns on Referendum

TO
ALL MEMBERS OF THE
LOUISIANA STATE BAR ASSOCIATION

Pursuant to the pertinent provisions of the Articles of Incorporation of this Association, the undersigned Secretary-Treasurer does certify that the results of the referendum by the Association relative to Articles V and VI of the By-Laws of this Association are as follows:

Proposition Number One (Article V) For 780; Against 380.

Proposition Number Two (Article VI) For 774; Against 280.

Number of Spoiled Ballots: 32

Number of Ballots Postmarked Subsequent to the Deadline: 13.

Your attention is called to the provisions of the Articles relative to protests, which provide that an election may be contested within five days after certification, by written petition addressed to the Board of Governors, stating the basis of the complaint.

This notification to the membership shall constitute official certification.

Very truly yours,
W. Ford Reese,
Secretary-Treasurer

House of Delegates Action

At its meeting in Baton Rouge on December 11, 1959, the House:

1. Amended Article IX of the bylaws to provide for a special meeting of the House during any regular session of the Legislature.
2. Ratified the Supreme Court order amending Article XII of the articles, regulating admissions to the bar.
3. Amended the bylaws so as to eliminate the committees on Legislation, Uniform State Laws, and Jurisprudence and Law Reform, combined and clarified the functions of those committees, and vested those functions and duties in a new Committee on Law Reform.
4. Referred to Committee for study and report the question of provision of counsel for indigent defendants in criminal cases.
5. Authorized the Committee on Law Reform to promote a constitutional amendment to provide effective waiver of the State's immunity from suit, and to draft and submit to the House appropriate implementing legislation.
6. Referred to committee the project of establishment of a code of conduct for judicial elections.
7. Authorized the Committee on American Citizenship to conduct an institute or seminar in the name of the Association for people in the field of education on the subject of Americanism vs. Communism.
8. Authorized the Committee on American Citizenship to conduct the 1960 L.S.B.A. Annual High School Essay contest.
9. Amended Rule I, section 6 of the Rules of the House to grant the privileges of the floor of the House, without vote, to Chairmen of Sections and Standing Committees and past Presidents of the Association.
10. Amended Rule X, section 1(c) of the Rules of the House to require the Committee on Draft to report to the House prior to any action by the House.
11. Extensively amended the bylaws of the Association (these amendments, as well as the Articles of Incorporation, amended to date, will shortly be published in full.)

Board of Governors Action

At its meeting on December 19, 1959, the Board:

1. Authorized the employment of an assistant to the Executive Counsel, and on the recommendation of its special committee, appointed Richard Seither. (See story elsewhere in this issue.)
2. Accepted the report of the Special Committee on Group Insurance relative to the Association's official sponsorship of the Curtis Reed plan.
3. Referred to the Committee on Public Relations and the Section on Insurance, Negligence and

Compensation Law, the question of a series of articles on law being distributed to the press and not originating from the Association, with the purpose of attempting to preclude any damage to the Association's public relations program by the issuance of such releases.

4. Recognized the mandate from the Association to plan the 1961 Annual meeting in Louisiana, but in the light of developments resulting from investigation of the situation, resolved to refer the question back to the membership, submitting comparative costs, advantages and disadvantages of holding that meeting in Biloxi or New Orleans, without recommendation.
5. Vetoed those resolutions passed by the House proposing to amend Articles V and VI of the by-laws of the Association, and approved all other actions taken by the House at its meeting on December 11, 1959. (For all actions of the House on December 11, 1959, see above).
6. Adopted resolutions setting out election procedures.
7. Adopted a resolution calling for the appointment of a committee composed of members of the House and the Board with a view of amending the Articles of Incorporation so as to establish a conference committee of the House and Board, and to provide that resolutions of the House of Delegates may be referred after review by the Board to the conference committee in lieu of disapproving or vetoing such resolutions for the purpose of attempting to reconcile the questions raised by the Board with the views of the House; and that the special committee be further empowered to recommend such additional procedures as it deems necessary to facilitate the operation of the conference committeee.

At its meeting on January 9, 1960, the Board:

1. Authorized the president to make the necessary Annual Meeting Committee appointments.
2. Received and filed the budget statement.
3. Moved the appointment of the budget committee.
4. Received the report and recommendations of the Nominating Committee.

REPORT OF JUNIOR BAR SECTION

by John Haygood, Chairman

The council of the Junior Bar Section held its first meeting of the 1959-60 year on June 10, 1959, at the offices of the state bar in New Orleans, at which it voted unanimously to endorse and assist in the establishment of the group insurance program recommended by the Special Insurance Committee of the Louisiana State Bar Association, William E. Syke, Alexandria, chairman, and approved by the Association's Board of Governors.

The council has attempted to fulfill the purposes of this resolution by the circulation of letters of endorsement and the sponsorship before local bar groups throughout the state of programs designed to explain the various insurance plans to the bar and to encourage participation therein.

The council also adopted a resolution endorsing the Jenkins-Simpson Bill in Congress and distributing copies thereof to the Louisiana Congressional delegation.

John W. Haygood, Shreveport, and Thomas C. Wicker, Jr., New Orleans, were named delegates to the annual meeting of the Junior Bar Conference of the ABA held at Miami Beach. At this meeting, Peter Beer, New Orleans, was elected speaker of the conference assembly of the JBC, and John G. Weinmann, New Orleans, was elected JBC council representative for the Eleventh Circuit, which includes Louisiana.

At subsequent meetings of the council on October 3, 1959, at Shreveport, and on December 12, 1959, at Baton Rouge, the council approved endorsement of pending Senate and House bills providing for a revision of federal tax lien laws as recommended by a special committee of the ABA. This endorsement was communicated to Senator Long and Representative Boggs, as members of their respective committees considering the bills.

George B. Hall, Alexandria, was nominated as JBS council representative and Alfred S. Landry, New Iberia, and James L. Pelletier, Lake Charles, were nominated as JBS observers to the council of the Louisiana State Law Institute.

The last Junior Bar Council meeting of the current year is scheduled for March 12, 1960, at Lafayette.

Name Bar Staff Assistant

Richard C. Seither, a practicing New Orleans attorney and newspaperman, has been named assistant to the executive counsel of the Louisiana State Bar Association.

Seither, a long-time reporter for The Times-Picayune, served four years as an Orleans Parish assistant district attorney.

Seither earned two degrees — B.A. and LL.B. — from Tulane while working full eight-hour shifts at The Times-Picayune. There he rose from copy boy to make-up editor with stints along the way as sports writer, campus correspondent, sports columnist and news reporter.

His strong preference is for writing, and he has handled every type of assignment. In 1942, as a war correspondent for the U. S. Marine Corps, Seither scored a world-wide "scoop" by writing the earliest exclusive stories on the air-sea rescue of Captain Eddie Rickenbacker and his party from the Pacific.

At the time, Seither was a line sergeant with the Fifth Defense Battalion on Funafuti atoll in the Ellice Islands. He had been a staff sergeant in charge of public relations for the state of Louisiana but volunteered to go overseas as a war correspondent with the First Marine Division.

RICHARD SEITHER

Award-Winning Paper

A legal paper he did on "Unesco, New Hope for International Copyright" won for Seither the Nathan Burkan Memorial competition at Tulane in 1953. It was adjudged among the three best in the nation and included in a symposium published by ASCAP (American Society of Composers, Artists and Publishers) on copyright law.

He edited the first edition of "The Student Lawyer," a publication of The American Bar Association, in 1952. And he was named to "Who's Who Among College Students."

Seither is a member of the Louisiana State Bar Association, the Press Club of New Orleans, and of the Disabled American Veterans.

He is married to the former Alice Valimaki of Montreal, Canada. They reside in New Orleans with their three daughters, Sharon, Kathleen and Allison.

HEARD AROUND THE DISTRICTS

Law Firm Announcements

Joseph M. Rault, Jr., has opened his office in New Orleans, as has *Ralph L. Kaskell. Alex F. Smith, Charles L. Mayer, Paul R. Mayer, Alex F. Smith, Jr.,* and *Sam A. Smith* announce the formation of a partnership for the general practice under the firm nam of *Mayer & Smith,* Shreveport. *Ernest V. Provensal* has opened his office for the general practice in Jefferson Parish. *Toxie L. Bush, Jr.,* has become associated with *Edward F. LeBlanc* and *Frank W. Summers* in Abbeville.

L.S.U. Student Bar Auxiliary Elects

Mrs. Hugh Ward was named president, *Mrs. Jack Brook,* vice president, *Mrs. Edgerton Henry,* recording secretary, *Mrs. Ben James,* corresponding secretary, *Mrs. Sam Friedman,* treasurer, *Mrs. W. Peyton Cunningham, Jr.,* publicity chairman, *Mrs. Marvin Brandon,* liaison, *Mrs. M. L. Laird,* social chairman, at the fall meeting of the Auxiliary.

21st Judicial District Bar Names Committees

To establish closer liaison within the association and between the profession and the public, the 21st Judicial District Bar Association has established a committee program closely paralleling that of the State Bar Association.

Murphy Blackwell Named President

At a recent meeting, the Fourth Judicial District Bar elected *Murphy Blackwell* as its new president, *Robert Easterling,* vice-president, and *Jesse McDonald,* secretary-treasurer. Named to the executive committee were the new officers, and *Kent Breard,* retiring president, *William Crow* and *James P. Madison, Jr.*

Shreveport Bar Elects

Marlin Risinger, Jr., was recently installed as president of the Shreveport Bar. Also named to office were *Robert Roberts, Jr.,* first vice president; *Vernon W. Woods,* second vice president, and *Pike Hall, Jr.,* secretary-treasurer.

SUPPORT YOUR ASSOCI

Lifetime Disability Income

(For Members)

1. PROTECTS YOUR MOST VALUABLE ASSET—EARNING POWER
2. PROVIDES LIFETIME SICKNESS AND LIFETIME ACCIDENT BENEFITS
3. CHOICE OF THREE ELIMINATION PERIODS ALLOW INDIVIDUAL PLANNING AT LOW GROUP RATES
4. GUARANTEED RENEWABLE UNLESS ENTIRE GROUP CANCELLED
5. SUBSTANTIAL SAVINGS OVER INDIVIDUAL POLICIES

CIION'S GROUP PROGRAM

$10,000 Major Medical

(For Members and Their Families)

1. DESIGNED TO COMPLEMENT BASIC HOSPITALIZATION POLICY
2. PROTECTION AGAINST THE MAJOR EXPENSE OF LONG DRAWN OUT ILLNESS
3. COSTS LESS THAN BASIC HOSPITALIZATION POLICY
4. COVERS EXPENSES INCURRED AT YOUR DOCTOR'S OFFICE AT HOME, OR IN THE HOSPITAL

Book Review

Research in Louisiana Law, by Kate Wallach.[2] Louisiana State University Press, Baton Rouge, La., 1948, pg. xi, 238. $5.00 (Paper-bound)

Primarily designed for the law student and young practitioner,[1] this authoritative ready-reference book to the sources of Louisiana law comes to fill a void in effective legal research. Principles of legal research, and techniques in the use of various legal publications have been covered extensively in a number of works already available,[3] but these do not provide adequate aid to students and practitioners in their constant search for the law of their own state. They particularly are inadequate for the Louisiana lawyer who, perhaps to a greater extent than a lawyer from a common law jurisdiction, refers frequently to historical sources, including Roman, Spanish and French materials.

The author approaches the subject on the logical assumption that effective legal research is impossible without a fundamental and thorough knowldge of all available source materials and of their contents. The first part of the book is thus devoted to, and provides the researcher with, invaluable information relating to constitutional and statutory laws, tracing their historical background and development, including descriptions of all available editions of the codes, constitutions and statutory compilations, and outlining what the researcher may hope to find in them.

The author also traces the constitutional, legislative and judicial history of the state, giving exhaustive and invaluable check lists of constitutional provisions and statutes effective at one time or another since 1804, as well as lists of digests, court reports, law reviews, treatises, legal periodicals, loose-leaf services, citators and articles on subjects of particular interest to the Louisiana lawyer.[4]

[1] As author indicates in the preface, this study should also be useful to students of government and social welfare and to all others interested in Louisiana law.

[2] WALLACH, KATE, Librarian, Louisiana State University Law School, Baton Rouge, La. b. 1905. J.D. 1931, Univ. of Cologne; LL.B. 1940, Univ. of Wisconsin; A.B.L.S. 1942, Univ. of Michigan. Admitted to practice, Wisconsin, 1942. Attorney, National Labor Relations Board, Washington, D.C., 1943-46. Cataloger and Reference Assistant, Univ. of Michigan Law Library, 1940-42; Asst. Law Librarian, Univ. of North Carolina, 1947-49; Librarian, Louisiana State University Law School, since 1949. Author, *Bibliographical history of Louisiana civil law sources,* 1955; contributor to legal and library periodicals; editor, index to North Carolina Law Review. Member American Association of Law Libraries, American Library Association, Louisiana Library Association, Special Libraries Association, State Bar of Wisconsin (inactive); President Southeastern Chapter, American Association of Law Libraries, 1958-59.

[3] See Pollack, *Fundamentals of Legal Research,* Foundation Press (1956); Roalfe, *How to Find the Law,* West Publishing Company (1957).

[4] The lists of Louisiana research materials contained in this manual are as exhaustive and complete as is possible to compile, and should prove of invaluable assistance to the legal researcher. Particular emphasis is placed on a description of their contents and on their arrangement, as well as on accepted methods of citation.

There is also included in the first part of the book a chapter devoted to state administrative agencies, appending lists of the various publications and regulations issued by them. Arranged in alphabetical order, this chapter is an effective short-cut for locating applicable constitutional and statutory provisions and regulations under which these agencies operate.

Civil Law Sources

The second part of the manual contains a bibliographical history of Louisiana civil law sources. Originally published under the auspices of the Louisiana State Law Institute,[5] and reprinted in this book with minor changes and additions, this amply documented study is an introductory as well as a refresher course in Roman, French and Spanish law, tracing the development and growth of these three systems of law and their inter-relationship to the civil law of Louisiana.

As the author points out, Louisiana lacks a modern history of its legal development and no comprehensive study has ever been made of the extent to which Roman and Canon law has been absorbed into Louisiana law as a result of French and Spanish domination of this area.

A student of Louisiana law is frequently confronted with citations to the original civil law sources, but lack of language facilities and unfamiliarity with the authorities cited in older cases frequently prevent an understanding of these references. This study will assist in eliminating that difficulty.

A work of this kind, of course, will require periodic supplements or revisions in order for it to serve as a constant and up-to-date aid to the researcher. The current edition, for instance, contains no information relating to the Louisiana State Law Institute's English translation of Planiol Civil Law Treatise, which was published several months after *Research in Louisiana Law* came off the press. Also, the appellate court structure of this state was revised by constitutional amendment after this study was completed, and for that reason these changes could not be included.

Revisions of the Louisiana Code of Practice, Civil Code and Constitution have been proposed, and information relating to the projects of these revisions or to the revised constitution or codes should be incorporated into this study if and when they are completed or adopted. Even without these periodic supplements or revisions, however, *Research in Louisiana Law* should prove invaluable both to the law student and to the legal profession in Louisiana.

Louisiana lawyers, students of government and others who are interested in legal history are heavily indebted to Miss Wallach for this important contribution to the legal literature of this state.

JOHN T. HOOD, JR.[6]

---

[5] *Bibliographical History of Louisiana Civil Law Sources Roman, French and Spanish*, Louisiana State Law Institute, Baton Rouge, La. (1955).

[6] Judge, Fourteenth Judicial District Court. The assistance of Honorable Carlos E. Lazarus, Research Coordinator and Revisor, Louisiana State Law Institute, is acknowledged.

ABA-Approved Lists

The publishers of the following law lists and legal directories have received Certificates of Compliance from the Standing Committee on Law Lists of the American Bar Association for their 1960 editions. Note that this is a list of lists approved by the ABA.

Commercial Law Lists

A. C. A. List
Associated Commercial Attorneys List
165 Broadway
New York 6, New York

American Lawyers Quarterly
The American Lawyers Company
1712 The Superior Building
Cleveland 14, Ohio

The B. A. Law List
The B. A. Law List Company
415 Colby-Abbot Building
Milwaukee 2, Wisconsin

The Clearing House Quarterly
Attorneys' National Clearing House Co.
3539 Hennepin Avenue
Minneapolis 8, Minnesota

The Columbia List
Columbia Directory Co., Inc.
320 Broadway
New York 7, New York

The Commercial Bar
The Commercial Bar, Inc.
521 Fifth Avenue
New York 17, New York

The C-R-C Attorney Directory
The C-R-C Law List Company, Inc.
15 Park Row
New York 38, New York

Forwarders List of Attorneys
Forwarders List Company
38 South Dearborn Street
Chicago 3, Illinois

The General Bar
The General Bar, Inc.
The Bar Building
36 West 44th Street
New York 36, New York

The International Lawyers
International Lawyers Company, Inc.
33 West 42nd Street
New York 36, New York

The National List
The National List, Inc.
122 East 42nd Street
New York 17, New York

Rand McNally List of Bank Recommended Attorneys
Rand McNally & Company
P. O. Box 7600
Chicago 80, Illinois

Wright-Holmes Law List
Wright-Holmes Corporation
225 West 34th Street
New York 1, New York

General Law Lists

American Bank Attorneys
American Bank Attorneys
18 Brattle Street
Cambridge 38, Massachusetts

The American Bar
The James C. Fifield Company
121 West Franklin
Minneapolis 4, Minnesota

The Bar Register
The Bar Register Company, Inc.
One Prospect Street
Summit, New Jersey

Campbell's List
Campbell's List, Inc.
Campbell Building
905 Orange Avenue
Winter Park, Florida

International Trial Lawyers
Directory Publishers, Inc.
84 South Cherry Street
Galesburg, Illinois

The Lawyers Directory
The Lawyers Directory Publishers
607 East Market Street
Charlottesville, Virginia

The Lawyers' List
The Law List Publishing Company, Inc.
521 Fifth Avenue
New York 17, New York

Markham's Negligence Counsel
Markham Publishing Corporation
Markham Building
66 Summer Street
Stamford, Connecticut

Russell Law List
Russell Law List
10 East 40th Street
New York 16, New York

General Legal Directory

Martindale-Hubbell Law Directory
Martindale-Hubbell, Inc.
One Prospect Street
Summit, New Jersey

Insurance Law Lists

Best's Recommended Insurance Attorneys
Alfred M. Best Company, Inc.
75 Fulton Street
New York 38, New York

Hine's Insurance Counsel
Hine's Legal Directory, Inc.
P. O. Box 71, 443 Duane Street
Glen Ellyn, Illinois

The Insurance Bar
The Bar List Publishing Co.
State Bank Building
Evanston, Illinois

The Underwriters List of Trial Counsel
Underwriters List Publishing Company
308 East Eighth Street
Cincinnati 2, Ohio

Probate Law Lists

The Probate Counsel
Probate Counsel, Inc.
First National Bank Building
Phoenix, Arizona

Sullivan's Probate Directory
Sullivan's Probate Directory, Inc.
84 South Cherry Street
Galesburg, Illinois

State Legal Directories

Publisher — The Legal Directories Publishing Co., Inc., 1072 Gayley Ave., Los Angeles 24, Calif.

Alabama, Florida and Georgia Legal Directory

Arkansas, Louisiana and Mississippi Legal Directory

Carolinas and Virginias Legal Directory

Delaware-Maryland and New Jersey Legal Directory

Illinois Legal Directory

Indiana Legal Directory

Iowa Legal Directory

Kansas Legal Directory

Kentucky and Tennessee Legal Directory

Michigan Legal Directory

Minnesota-Nebraska, North Dakota and South Dakota Legal Directory

Missouri Legal Directory

Mountain States Legal Directory (For the States of Colorado, Idaho, Montana, New Mexico, Utah and Wyoming)

New England Legal Directory
(For the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont)

New York Legal Directory

Ohio Legal Directory

Oklahoma Legal Directory

Pacific Coast Legal Directory
(For the States of Alaska, Arizona, California, Nevada, Oregon and Washington)

Pennsylvania Legal Directory

Texas Legal Directory

Wisconsin Legal Directory

Foreign Law Lists

Butterworths Empire Law List
Butterworth & Company
(Publishers) Ltd.
88 Kingsway
London, W. C. 2, England

Canadian Law List
Cartwright & Sons Limited
2081 Yonge Street
Toronto 7, Ontario, Canada

Carswell's Directory of Canadian Lawyers
The Carswell Company Limited
145 Adelaide Street, West
Toronto 1, Ontario, Canada

The International Law List
L. Corper-Mordaunt & Co.
Pitman House, Parker Street
London, W. C. 2, England

Kime's International Law Directory
Kime's International Law Directory, Ltd.
107 St. Alban's Road
Watford, Herts., England

Economic Survey of the Legal Profession In Louisiana

PART III

The Pricing of Legal Services in Louisiana

by William D. Ross

(NOTE: This is the third installment of the comprehensive Economic Survey of the Legal Profession in Louisiana being conducted under the Committee on Economic Survey of the Legal Profession of the Louisiana State Bar Association, Richard B. Montgomery, Chairman. Part I of this survey, which appears in the Louisiana Bar Journal, February, 1959, Volume VI, Number 4, presents a detailed analysis of the "Income Status of Full-Time Practitioners in Louisiana in 1957." Part II examines "The income Status and Sources of Income of All Louisiana Lawyers in 1957." Part III presents the policies and practices of Louisiana practicioners with respect to the pricing of the various types of legal service they supply to the public. These policies and practices are analyzed and appraised from the economist's vantage point as an outside, impartial observer. The analyses are based upon economic and business management criteria.)

The income status and the sources of income of members of the Louisiana Bar Association have been examined in some detail in the preceding two parts of this survey.

Although some 992 members of the Louisiana bar were not actively engaged in the practice of law in 1958 and a sizable additional number of Louisiana attorneys received a significant portion of their annual income from sources other than the practice of law, the annual incomes of a majority of Louisiana lawyers do come largely from the practice of law. How do Louisiana lawyers price the various types of legal services which they supply to the public? What is the origin of the existing pricing system? Is it a logical and economically sound system or has it just "grown like Topsy"?

With only a superficial attempt at discovering the origins of the system, it would appear that like "Topsy" it has just grown without any serious effort by any group in the profession to reappraise the parts or the system as a whole. This is not to say that there is not consistent historical evidence of concern within the profession about

---

Dr. William D. Ross is serving as Economic Consultant and Research Director for the Survey of the Legal Profession in Louisiana; he is Dean of the College of Business Administration at Louisiana State University.

its fee system; however, that concern has almost invariably been limited to the general level of fees rather than including concern about the structure of the fee system. In recent years, the results of this professional concern about the fee system have taken the form of minimum fee schedules formally adopted by local bar associations.

Pricing Policies

In Louisiana, as in the other states, the basic policy guide to the fixing of legal fees, adopted by the Louisiana State Bar Association and by all local bars, is Canon 12 of the "Canons of Ethics" of the American Bar Association. Canon 12 is entitled "Fixing the Amount of the Fees." The statement reads as follows:

> "In fixing fees, lawyers should avoid charges which overestimate their advice and services, as well as those which undervalue them. A client's ability to pay cannot justify a charge in excess of the value of the service, though his poverty may require a less charge, or even none at all. The reasonable requests of brother lawyers, and of their widows and orphans without ample means, should receive special and kindly consideration.
>
> "In determining the amount of the fee, it is proper to consider: (1) the time and labor required, the novelty and difficulty of the questions involved and the skill requisite properly to conduct the cause; (2) whether the acceptance of employment in the particular case will preclude the lawyer's appearance for others in cases likely to arise out of the transaction, and in which there is a reasonable expectation that otherwise he would be employed, or will involve the loss of other business while employed in the particular case or antagonisms with other clients; (3) the customary charges of the Bar for similar services; (4) the amount involved in the controversy and the benefits resulting to the client from the services; (5) the contingency or the certainty of the compensation; and (6) the character of the employment, whether casual or for an established and constant client. No one of these considerations in itself is controlling. They are mere guides in ascertaining the real value of the service.
>
> "In fixing fees it should never be forgotten that the profession is a branch of the administration of justice and not a mere money-getting trade."

Although this statement is an important part of the code of ethics of the legal profession in the United States, it is clearly subject to individual interpretation and to an infinite variety of interpretations. It is not surprising then that efforts have been made, primarily at the local level, to establish more specific guide lines to the fixing of legal fees. As noted above, these efforts have frequently resulted in the establishment of local minimum fee schedules. As the term indi-

cates, attention has been centered almost exclusively upon the problem of establishing a floor under the prices of legal services in the form of minimum fees for specified types of services.

The conventional explanation in justification of such action is exceptionally well stated in the preface to the minimum fee schedule of one local bar association in Louisiana:

> "Fees cannot be set with mathematical certainty because of the many and varying circumstances and questions involved, and the schedule here recommended is intended to reflect only the minimum and not an average charge nor a maximum charge, and is of little aid when substantial sums, unusual difficulties, or greater responsibilities are involved.
>
> "A lawyer has a right to charge a fee that is reasonable under all the circumstances, but for his own protection and that of his profession he should not charge less than the fee prescribed in the minimum fee bill. A lawyer is prone to forget the capital investment he has made in securing a legal education and in supplying and operating his office. If a calculation is made, he will observe that he cannot afford to give away either his time or his services.
>
> "The Committee urges each member of the Bar to adopt the practice of not charging less than the minimum fee schedule in fixing fees. The public has a right to expect conscientious and competent services from the Bar, but clients will have a greater appreciation and more respect for lawyers and their profession if the lawyers themselves attach a fair value to their services."

Although Canon 12 of the American Bar Association and other policy statements sometimes adopted by local bar associations admonish against overcharging for legal services and particularly against overcharging where ability-to-pay is questionable, major concern in the profession has been and currently is directed toward getting minimum fees adopted and toward getting broader compliance with minimum fee schedules.[1]

The Louisiana State Bar Association has been quite successful in getting its local associations to adopt minimum fee schedules. There are thirty-three local bar associations in Louisiana. Twenty-four are known to have minimum fee schedules; one is in the process of preparing one; one is known not to have one; and it is not known whether or not the other seven have adopted minimum fee schedules.

As a policy matter, it is also important to note the types of legal

---

1 See, for example: Special Committee on Economics of Law Practice, "Lawyers' Economic Problems and Some Bar Association Solutions." American Bar Association, (Economics of Law Practice Series, Pamphlet No. 2), pp. 22-26.

services which are usually covered by minimum fee schedules and those which are not; it is possible that the typical omissions are more important to the lawyers' pricing problem than the items which are normally included in minimum fee schedules. Among those items included in all Louisiana minimum fee schedules examined were legal services associated with the following: collections, contracts, articles of incorporation or dissolution, titles of examination, successions, and claim suits. Additional items which appear quite frequently in Louisiana minimum fee schedules are: adoptions, consultations, articles of partnerships, trusts, wills, claim suit appeals, bankruptcy, collection suits, workmen's compensation compromise settlements, divorce or separation, emancipations, foreclosure of mortgages, interdictions, partitions, tutorships, and curators. Other miscellaneous items such as F.H.A. and G.I. loans and income tax returns appear in some minimum fee bills in Louisiana. Less often, however, does a minimum fee schedule refer to such important items as contingent damage suits and criminal cases.

Other types of legal service that normally are supplied by only a limited number of relatively specialized practitioners within a state, such as labor law practice, mineral law practice, and municipal bond practice, are a complete no-man's land with respect to accepted minima and maxima. Conflicting opinions with respect to the appropriateness of fees charged in specific known cases abound within the legal fraternity.

Efforts at enforcement of minimum fee schedules vary widely. In Louisiana, they range from the case in which the schedule covers only a half dozen or so types of services to which standardized minimum fees can easily be applied without the necessity of significant efforts to secure conformity, to one case in which the minimum fee schedule includes all of the items mentioned above which frequently appear in Louisiana minimum fee schedules plus criminal cases with each member of the local bar signing a formal agreement "to support any official action taken by the local association against any member who may hereafter violate any provisions of this agreement." A significant variation also occurs in the minimum fees established for the same service by the schedules of the various local bar associations.

The primary effort of the American Bar Association for some years has been directed at securing the adoption of minimum fee schedules by local bars without concern as to variations between local charges. In a recent publication, however, the association complains:

> *"Many existent fee schedules unfortunately simply reflect fees customarily charged over a long period of years in the particular locality. They do not reflect comparison with fees charged in other parts of the state nor the amount of reasonable minimums. In but few instances has any study extended beyond state boundaries by comparing fees within*

TABLE 23

ALL PRACTITIONERS

Distribution of Fees Charged for Selected Standard Legal Services by Type of Fee and Type of Legal Service 1958

Type of Service	Type of Fee Charged			
	Fixed Fee	Percentage Fee	Both	Total
		(Per Cent)		
Sales	87	10	3	100
Mortgages	88	9	3	100
Wills	95	4	1	100
Leases	81	17	2	100
Contracts to Sell	86	11	3	100
Opinions	79	18	3	100
Articles of Incorporation	62	36	2	100
Amendments to Articles of Incorporation	72	27	1	100
Title Opinions	39	57	4	100
Title Abstracts	54	45	2	100
Collections	12	86	2	100
Successions	16	80	4	100

Note: Percentages do not always total exactly 100 because of rounding.

the particular state with those charged in comparable states."[2]

Pricing Practices—Selected Services

What are the practices of Louisiana practitioners with respect to the pricing of their services? Since not all Louisiana lawyers are members of local bar associations, not all local bars in the state have adopted minimum fee schedules, and these schedules purport to establish minimum charges only; the charges recommended in these schedules may not be expected to indicate actual pricing practices.

As would be expected, survey data reveal a great diversity in pricing practices among Louisiana attorneys. On the other hand, some predominant patterns do emerge with respect to the use of fixed versus percentage fees for certain types of legal services and with respect to the amount of specific fees.

Table 23 shows the type of fee employed, fixed, percentage, or both, by Louisiana lawyers in charging for selected standard legal services. According to these data, 87 per cent of all Louisiana practitioners charged a fixed fee for executing sales contracts in 1958; 88 per cent charged a fixed fee for mortgage contracts; 95 per cent charged a fixed fee for wills; 81 per cent used a fixed fee for leases; 86 per cent used a fixed fee for contracts to sell; 79 per cent

[2] *Ibid.*, p. 24.

charged fixed fees for opinions; 62 per cent used fixed fees for articles of incorporation; 72 per cent used fixed fees for amendments to articles of incorporation; and 54 per cent charged fixed fees for title abstracts. The reverse was true in the case of title opinions, collections, and successions. Fifty-seven per cent of all Louisiana practitioners charged percentage fees for title opinions, 39 per cent used fixed fees, and 4 per cent reported the use of both types of fees. The preference for percentage fees was much greater in the case of collections; 86 per cent of the practitioners used percentage fees in 1958; 12 per cent used fixed fees; and 2 per cent reported the use of both types. For successions, the ratios were 80 per cent, 16 per cent, and 4 per cent, respectively. Most minimum fee schedules in use in Louisiana recommend fixed minimum fees for sales, mortgages, wills, leases, contracts to sell, articles of incorporation, and amendments to articles of incorporation. Use of supplementary percentage fees for unusually large amounts or the substitution of a percentage fee is suggested in some cases; this would account for the use by some attorneys of both types of fees for these services. Most minimum fee schedules recommend percentage fees for title opinions, collections, and successions, with fixed minima prescribed only where small values

TABLE 24

ALL PRACTITIONERS

Distribution of Percentage Fees Charged for Successions by Size of Fee, Form of Organization of Practice, and Community Size 1958

Form of Organization of Practice	Size of Fee										
	1%	2%	3%	4%	5%	6%	7%	8%	9%	10+%	Total
	(Per Cent)										
Sole Practitioner	4	19	43	11	16	2		1		4	100
Group	2	7	47	22	21					1	100
Partnership	2	23	50	12	11	1				2	100

Community Size	Size of Fee										
	1	2	3	4	5	6	7	8	9	10+	Total
	(Per Cent)										
0-2,000		23	62	8						8	100
2,001-10,000	3	37	42	3	10	2				2	100
10,001-50,000	2	15	43	13	20	1		1		4	100
50,001-200,000	4	29	52		12					4	100
New Orleans	2	4	48	27	17	2				1	100
Total	3	18	47	14	15	1				2	100

Note: Percentages do not always total exactly 100 because of rounding.

are involved. Fixed fees charged by Louisiana practitioners in 1958 for the above mentioned services varied quite widely but, in general, reflected the influence of charges recommended in minimum fee schedules. Median fixed fees reported were as follows: sales, $15; mortgages, $15; wills, $25; leases, $15; contracts to sell, $25; opinions, $25; articles of incorporation, $100; amendments to articles of incorporation, $75; and title abstracts, $30. The range of fees reported in each case was as follows: sales, $5-$50; mortgages $8-$50; wills, $0-$70; leases, $10-$40; contracts to sell, $10-$100; opinions, $5-$100; articles of incorporation, $25-$250; amendments to articles of incorporation, $25-$150; and title abstracts, $15-$75.

Tables 24-27 present frequency distributions of percentage fees reportedly used by Louisiana practitioners in pricing their services in connection with successions, title examinations, mortgage foreclosures, and contingent damage suits; the data are broken down by form of organization of practice. Table 24 reveals that 3 per cent is the predominant charge made by sole practitioners, group practioners, and partnerships in connection with the handling of successions; this is also the percentage recommended in most minimum fee schedules in Louisiana for successions without administration. Some schedules recommend graduated declining rates varying inversely with the magnitude of the succession; and all schedules recommend a higher figure, usually 5 per cent, where administration is involved. These variations in minimum fee schedules partially explain the pattern of distribution of reported charges in Table 24 but will not explain the extremes of this distribution. A significant number of Louisiana practitioners are not charging the recommended 3 per cent minimum, and a few practitioners are imposing charges several times as great as the generally recommended minimum.

The unanimity of practice with regard to charges for title examinations is much greater and also conforms to the generally recommended minimum of one per cent of the sale value of the property or the value of the mortgage. There is little evidence of any effects of recommendations in some minimum fee schedules that the percentage charged be scaled down on a graduated basis in cases involving large values. Although a few practitioners reported title examination charges in excess of 10 per cent, 89 per cent of the sole practitioners, 99 per cent of the group practitioners, and 90 per cent of the partners reported the use of the one per cent fee. (See Table 25.)

Strong influence of minimum fee schedules is also evident in the case of fees reported for mortgage foreclosures. The predominant practice is to charge a fee of 10 per cent calculated on the amount for which the property is sold; this is also the minimum recommended in most fee schedules. According to survey data, 57 per cent of the sole practitioners, 60 per cent of the group practitioners, and 65 per cent of the partners reported that they employ a 10 per cent fee; although a significant number of attorneys in each group reported the use of fees

TABLE 25

ALL PRACTITIONERS

Distribution of Percentage Fees Charged for Title Examinations by Size of Fee, Form of Organization of Practice, and Community Size 1958

Form of Organization of Practice	Size of Fee										
	1%	2%	3%	4%	5%	6%	7%	8%	9%	10+%	Total
	(Per Cent)										
Sole Practitioner	89	3	1		3					4	100
Group	99	1									100
Partnership	90	4		1	1					4	100

Community Size	Size of Fee										
	1%	2%	3%	4%	5%	6%	7%	8%	9%	10+%	Total
	(Per Cent)										
0-2,000	88				11						100
2,001-10,000	87	4			2					7	100
10,001-50,000	92	1	1		1					4	100
50,001-200,000	83	11			2					5	100
New Orleans	98			1						1	100
Total	92	3			1					3	100

Note: Percentages do not always total exactly 100 because of rounding.

of 20 per cent or above. It is significant that no survey respondents reported the use of fees below 10 per cent for this type of service. (See Table 26.)

Table 27 shows that 53 per cent of the sole practitioners, 49 per cent of the group practitioners and 47 per cent of the partners charged fees in the 32-33.9 per cent bracket for handling contingent damage suits in 1958. With one exception, the minimum fee schedules in Louisiana which cover this type of service recommend a charge of 25 per cent of the gross amount of settlement where settlement is made without suit, and 33-1/3 per cent of the gross amount of recovery where settlement is made after suit is instituted; 33-1/3 per cent appears to be the predominant practice in Louisiana, but the variation from this figure is significant. Rates as low as 20 per cent and in excess of 40 per cent are in use, with 25 per cent and 28 per cent apparently the most widely used of the alternative rates charged. The predominant rate in use on collections is 25 per cent on the first $500 and 15 per cent on

amounts in excess of $500; this rate exceeds the minimum recommended in a number of fee schedules.

Tables 24-27 also present frequency distributions of fees charged by Louisiana practitioners, broken down by community size. Examination of these tables reveals variations in fees charged for successions, title examinations, mortgage foreclosures, and contingent damage suits within each community size group.

What is the attitude of Louisiana practitioners toward minimum fee schedules? Table 28 shows that 92 per cent of the attorneys in Louisiana in 1958 approved the use of minimum fee schedules. By form of organization of practice, the ratios approving were sole practitioners, 95 per cent; group practitioners, 90 per cent; and partners, 91 per cent.

Pricing Practices—Criminal Cases

The survey questionnaire did not cover fee practices applicable to mineral law, labor law, or municipal bonds because the number of attorneys engaged in such practice in Louisiana is too small to be surveyed on a sample basis. The survey did attempt to discover the practices of Louisiana attorneys in charging for criminal cases. Practitioners were asked: "On what basis do you charge for criminal cases?" Replies received, in the order of frequency with which they occurred, were as follows: gravity of case and ability to pay; time involved, gravity of case, and ability to pay; gravity of case and time involved; gravity of case;

TABLE 26

ALL PRACTITIONERS

Distribution of Percentage Fees Charged for Mortgage Foreclosures by Size of Fee, Form of Organization of Practice, and Community Size 1958

Form of Organization of Practice	Size of Fee											
	10%	11%	12%	13%	14%	15%	16%	17%	18%	19%	20+%	Total
	(Per Cent)											
Sole Practitioner	57			2		13				10	17	100
Group	60		3			15		3		3	18	100
Partnership	65	1	1	1		11		1		7	12	100
Community Size	Size of Fee											
	10%	11%	12%	13%	14%	15%	16%	17%	18%	19%	20+%	Total
	(Per Cent)											
0-2,000	50					20		10			20	100
2,001-10,000	63	2		2		16				8	9	100
10,001-50,000	56		1	3		13		1		9	16	100
50,001-200,000	67					3				6	24	100
New Orleans	65		2			14				7	12	100
Total	61		1	1		13		1		7	15	100

Note: Percentages do not always total exactly 100 because of rounding.

TABLE 27

ALL PRACTITIONERS

Distribution of Percentage Fees Charged for Contingent Damage Suits by Size of Fee, Form of Organization of Practice, and Community Size 1958

Form of Organization of Practice	Size of Fee											
	20-21.9	22-23.9	24-25.9	26-27.9	28-29.9	30-31.9	32-33.9	34-35.9	36-37.9	38-39.9	40+	Total
	(Per Cent)											
Sole Practitioner	1		15	1	12	9	53	1	2		6	100
Group			16	1	15	8	49	4	1	1	4	100
Partnership	1		18	3	17	10	47	2		1	2	100

Community Size	Size of Fee											
	20-21.9	22-23.9	24-25.9	26-27.9	28-29.9	30-31.9	32-33.9	34-35.9	36-37.9	38-39.9	40+	Total
	(Per Cent)											
0-2,000			33	17		17	33					100
2,001-10,000			21	3	16	4	50		3		3	100
10,001-50,000			13	1	19	11	52			1	2	100
50,001-200,000	4		15		13	12	49	3		1	4	100
New Orleans	2		16	2	13	7	49	4	2		5	100
Total	1		17	1	15	9	50	2	1	1	4	100

Note: Percentages do not always total exactly 100 because of rounding.

TABLE 28

ALL PRACTITIONERS

Distribution of Attitudes Toward Minimum Fee Schedules by Type of Attitude and Form of Organization of Practice 1958

Form of Organization of Practice	Type of Attitude		
	Approve	Disapprove	Total
		(Per Cent)	
Sole Practitioner	95	5	100
Group	90	10	100
Partnership	91	9	100
All Practitioners	92	8	100

Note: Percentages do not always total exactly 100 because of rounding.

ability to pay; minimum fee basis for local bar; $50 minimum; ability to pay and time involved; time involved; results of case. Ten minimum fee schedules in Louisiana set fixed minima for criminal cases; prescribed minima for misdemeanors range from $15 to $100; for felonies, other than capital cases, from $75 to $500; and for capital cases, from $250 to $1,000. It is clear from the replies of survey respondents, however, that fixed minima are seldom applied in such cases and are designed only to set floors under rates, not to guide actual charges.

Pricing Practices—Retainers

Another important feature of the pricing of legal services is the use of retainers. *Webster's Unabridged Dictionary* defines "retainers" as: "A fee paid to engage a lawyer or counselor to maintain a cause, or to any professional adviser to give advice, or to secure a prior claim upon his services in case of need." Legal retainers are normally paid to a legal firm or to an individual attorney on an annual basis. Individuals with significant holdings of personal wealth, particularly in the form of property or business investments, frequently employ legal counsel on a retainer basis; but retainer fees most often apply in cases where the client is a business or industrial enterprise, a financial institution, a private non-profit institution, a quasi-public or a public institution.

Retainer agreements normally provide that the individual attorney or legal firm will provide general legal services and legal representation for the client (with certain specified exclusions) on an if, as, and when required basis. Under such arrangements, legal advice becomes available to the client on a continuous basis; general types of legal transactions and litigations are handled for the client as the need arises; legal representation may also be provided before legislative bodies and other governmental units where the client's interest may on occasion be in jeopardy. Minimum fee schedules would be applicable to some of the services contained in the package

TABLE 29

ALL PRACTITIONERS

Distribution of Ratios of Gross Income from Annual Retainers
by Ratio Brackets and by Form of Organization of Practice
1958

Form of Organization of Practice	Ratio of Gross Income from Annual Retainers											
	0%	1-4%	5-9%	10-14%	15-19%	20-24%	25-29%	30-34%	35-39%	40-45%	45+%	Total
	(Per Cent)											
Sole Practitioner	49	10	10	12	3	6	2	2	1	1	4	100
Group	48	5	12	12	7	2	2	4		5	3	100
Partnership	16	15	17	17	8	9	7	3	1	2	5	100
All Practitioners	35	11	14	14	6	6	4	3	1	2	4	100
Sole Practitioner	54	35	31	32	20	34	16	29	33	18	36	37
Group	27	9	18	17	23	6	11	29		46	14	20
Partnership	19	56	51	51	57	60	73	42	67	36	50	43
All Practitioners	100	100	100	100	100	100	100	100	100	100	100	100

Note: Percentages do not always total exactly 100 because of rounding.

normally provided under the retainer agreement but would not apply to some of the more important services rendered under such agreements. It is apparent that the pricing of legal services under retainer agreements must be approached by estimating the combination of services likely to be rendered, the amount of professional time that will likely be involved, and the value of the immediate availability of legal services on a continuous basis. Each retainer agreement must be tailormade to the needs of the individual client and rules of thumb or other more scientific criteria which may be used by Louisiana attorneys in approaching the problem of pricing their services under retainer agreements are closely guarded trade secrets. Survey data do, however provide some insight into the importance of retainers to Louisiana practitioners, in terms of the number of attorneys who have retainer clients and the effects of retainers on lawyers' incomes.

Table 29 shows the distribution of ratios of gross income from annual retainers for all Louisiana practitioners, by form of organization of practice and by percentage of gross income brackets. The most significant fact revealed by these data is that the partnerships or legal firms get the lion's share of the retainer clients. In 1958, 49 per cent of the sole practitioners reported no income from retainers; 48 per cent of the group practitioners reported no income from retainers; but only 16 per cent of the partners reported no such income. Of those practitioners who reported no gross income from retainers, 54 per cent were sole practitioners, 27 per cent were group practitioners and 19 per cent were partners. The ratios of gross income from annual retainers reported most frequently by those attorneys who reported income from this source fell in the 5 to 14 per cent brackets; 28 per cent of all practitioners reported ratios of 5 to 14 per cent; by form of organization of practice, the comparable ratios were 22 per cent for sole practitioners, 24 per cent for group practitioners, and 34 per cent for partners. Only 4 per cent of all practitioners derived more than 45 per cent of their gross income from retainers.

Table 30 shows the distribution of ratios of gross income from annual retainers for all practitioners by ratio brackets and by community size. As would be expected, the percentage of practitioners in the communities of less than 2,000 people who reported income from retainers was substantially smaller than in the other community size groups; only 53 per cent reported such income as compared with 68 per cent for the next three community sizes, 2,001-10,000, 10,001-50,000, and 50,001-200,000 population; the ratio for New Orleans was 61 per cent. The larger ratios of gross income from annual retainers were also reported more frequently by practitioners in the larger community sizes. Nevertheless, retainers appear to be a significant factor even in the incomes of attorneys practicing in the smallest communities.

TABLE 30

ALL PRACTITIONERS

Distribution of Ratios of Gross Income from Annual Retailers
by Ratio Brackets and by Community Size
1958

Community Size	Ratios of Gross Income from Annual Retainers											
	0%	1-4%	5-9%	10-14%	15-19%	20-24%	25-29%	30-34%	35-39%	40-45%	45+%	Total
	(Per Cent)											
0-2,000	47	11		11	5	16	5			5		100
2,001-10,000	32	26	15	12	4	3	3			1	5	100
10,001-50,000	32	16	16	15	5	7	3	2		1	4	100
50,001-200,000	32	7	14	13	9	7	5	4	2	2	6	100
New Orleans	39	5	12	15	6	6	5	5	1	4	4	100
Total	35	11	14	14	6	6	4	3	1	2	4	100
0-2,000	5	4		3	3	9	5			9		4
2,001-10,000	15	37	18	15	10	6	11			9	18	16
10,001-50,000	21	32	28	25	20	25	16	14		9	23	23
50,000-200,000	23	16	26	23	37	28	32	36	67	18	32	25
New Orleans	35	12	28	35	30	31	37	50	33	56	27	32
Total	100	100	100	100	100	100	100	100	100	100	100	100

Note: Percentages do not always total exactly 100 because of rounding.

TABLE 31

ALL PRACTITIONERS

Mean and Median Net Income from Practice Only
by Ratio of Gross Income from Annual Retainers
1957

Ratio of Gross Income from Annual Retainers	Net Income from Practice Only	
	Mean	Median
	(Dollars)	
Zero	9,147	7,000
0-4%	13,887	11,000
5-9%	14,924	12,000
10-14%	15,877	12,000
15-19%	15,172	12,000
20-24%	14,968	12,000
25-29%	18,278	16,000
30-34%	12,786	10,500
35-39%	11,333	7,000
40-45%	17,111	7,000
45%+	15,474	9,000

Table 31 correlates mean and median net incomes from practice of Louisiana practitioners with percentage brackets of gross income from annual retainers. It would appear that there is a clear income advantage for the attorney who has retainer agreements with some of his clients. Although the direct relationship is not consistent, there would also appear to be an income advantage as the ratio of gross income from retainers increases from zero to around 30 per cent. Beyond 30 per cent, the relationship does not appear to be direct, although the reliability of the data in Table 31 is reduced by the fact that individual incomes from practice are correlated with ratios of gross for individual practitioners and partnerships. The individual incomes, both large and small, of senior and junior partners within a given firm would thus be correlated in these data with the same ratio of gross. In any case, these data are sufficiently reliable to establish the importance of retainers to the size of the average attorney's income.

Pricing Practices—Time Records And Charges for Consultation

Although it cannot be discovered from minimum fee schedules or from most of the current literature on the subject of legal fees, perhaps the most important key to the lawyer's problem of pricing his services and to the size of his income is to be found in the per hour or per diem value which he places upon his services. From an economic standpoint and from a business management standpoint, this

TABLE 32

ALL PRACTITIONERS

Incidence of Use of Daily Time Records, Charges for Office Consultation, and Charges for Telephone Consultation by Form of Organization of Practice 1958

Form of Organization of Practice	Use of Daily Time Records			Charge for Office Consultation			Telephone Consultation		
	Yes	No	Total	Yes	No	Total	Yes	No	Total
	(Per Cent)			(Per Cent)			(Per Cent)		
Sole Practitioner	21	79	100	15	85	100	11	89	100
Group	15	85	100	12	88	100	5	95	100
Partnership	28	72	100	22	78	100	22	78	100
All Practitioners	23	77	100	17	83	100	15	85	100

may also be the soundest approach to the lawyer's pricing problem. The data presented below suggest that this is the case, but they also reveal that the majority of all practitioners in Louisiana have been grossly negligent in approaching their pricing problem on this basis.

Table 32 shows that 77 per cent of all practitioners in Louisiana in 1958 reported that they keep no daily time record information. By form of organization of practice, the ratios of those who keep no daily time records are: sole practitioners, 79 per cent; group practitioners, 85 per cent; and partners, 72 per cent. There is obviously a close relationship between daily time records and the attorney's practice with respect to charging for office consultation. An individual practitioner or a firm may keep daily time records for use in setting fees for all or some types of services rendered but still may not charge for office consultation with clients. On the other hand, a logical and efficient system of charging for office consultation must be based upon time records which show the amount of time involved in such consultation with individual clients. It is, of course, possible to employ a flat fee for consultation, as prescribed in some minimum fee schedules; but survey data would seem to suggest that the attorneys who charge for consultation are in most cases those who do maintain daily time records.

Minimum fee schedules notwithstanding, only 17 per cent of all Louisiana practitioners reported that they charged for office consultation in 1958; this was even less than the 23 per cent who reported that they do keep daily time records. Only 15 per cent of the practitioners reported that they

charged for telephone consultation. Thus, 83 per cent of all practitioners in Louisiana do not charge for office consultation and 85 per cent do not charge for telephone consultation (See Table 32). It is quite significant to note that the use of such charges is much greater among the attorneys who practice as members of partnerships; 22 per cent of the partners as opposed to 15 per cent of the sole practitioners and 12 per cent of the group practitioners reported that they charge for office consultation. The corresponding percentages for telephone consultation are 22 per cent, 11 per cent, and 5 per cent, respectively.

Table 33 presents the same information broken down by community size. Perhaps the most interesting fact revealed by these data is that daily time records and charges for office and telephone consultation are less prevalent in New Orleans than in the small communities. In communities of 10,001-50,000 and 50,001-200,000 population, 26 per cent and 27 per cent, respectively, of the practitioners report the use of daily time records as compared with 17 per cent for New Orleans; a surprisingly high 28 per cent of practitioners in communities of under 2,000 people reported that they keep daily time records. Communities of 10,001-50,000 have the highest incidence of charges for office and telephone consultation; 23 per cent of all practitioners in this community size group charge for office consultation and 19 per cent charge for telephone consultation. The corresponding percentages for New Orleans are 14 per cent and 9 per cent, respectively. The greater use of daily time records and of charges for office and telephone consultation in the 10,001-50,000 population group may, in part, account for the relatively favorable income situation reported for full-time practitioners in cities in this community

TABLE 33

ALL PRACTITIONERS

Incidence of Use of Daily Time Records, Charges for Office Consultation and Charges for Telephone Consultation by Community Size
1958

Community Size	Use of Daily Time Records			Charge for Office Consultation			Charge for Telephone Consultation		
	Yes	No	Total	Yes	No	Total	Yes	No	Total
	(Per Cent)			(Per Cent)			(Per Cent)		
0-2,000	28	72	100	18	82	100	17	83	100
2,001-10,000	20	80	100	17	83	100	14	86	100
10,001-50,000	26	74	100	23	77	100	19	81	100
50,001-200,000	27	73	100	16	84	100	18	82	100
New Orleans	17	83	100	14	86	100	9	91	100
Total	23	77	100	17	83	100	15	85	100

size group in Part I of this survey, as follows:

"This analysis would seem to suggest that Louisiana cities in the 10,001-50,000 population size group currently offer an unusually good opportunity to the young lawyer seeking a location for practice. His chances of a very high income are somewhat smaller, but his chances of landing in the $10,000 to $30,-00 range would appear to be substantially greater in this community size than in the larger or smaller cities and towns of the state."[3]

Pricing Practices—Per Diem Rates

Table 34* relates average per diem charges for court appearances to net income from practice, by income bracket. The evidence supplied by this table is impressive. The data leaves no doubt as to the general correlation between the size of the rate and the size of the income from practice. Further evidence would also seem to be supplied to support the logic and general economic soundness, from the standpoint of the profession, of a time approach to the entire legal pricing problem. Some of the average charges reported in these data were undoubtedly converted from rates computed on entirely different bases; for example, an average daily figure for court appearances of an attorney who handles nothing but contingent damage suits. The fact that even such attorneys can and sometimes do convert their charges into average daily rates suggests that to reverse this process would also be a completely feasible means of establishing the rate in the first place. In the final analysis, the attorney has nothing but his time and the time of his staff to sell. As a competent professional, his time is valuable and, under his direction, the time of his staff, professional and non-professional, is valuable. How valuable that time is will depend upon his own training, skill and reputation; the value of his staff's time will also depend upon these same factors. The attorney should be able to place a price on this time which truly reflects its professional nature and its value to the public.

The doctor (M.D.) prices his time in this fashion. The architect and the engineer employ percentage fees based upon the value of the job to be engineered; for them however, the percentage fee provides a correlation between time expended and the size of the fee because there is generally a direct relationship between the size of the job to be done and the time necessary to complete it, and the value of the project. There is no such logical time dimension to most percentage fees employed by the legal profession.

There is no question but that percentage fees, as a matter of fact any type of fee, can be justified under the logic of the ethical umbrella with which the legal profession has provided itself in Canon 12 of the "Canons of Ethics" of the

[3] "Survey of the Legal Profession in Louisiana, Part I," Louisiana Bar Journal, Vol. VI, No. 4 (February, 1959), p. 321.

*NOTE: Tables 34 through 43 appear at the end of this article.

American Bar Association. There can be and is, I understand, serious disagreement among competent and highly respected attorneys as to what the ethical upper limits of certain legal rates should be; Canon 12 certainly provides no guide to the solution of such issues; there is too much opportunity for variation of opinion on too great a variety of criteria. The same multiplicity of criteria and confusion of rate bases accounts for the problems encountered in establishing reasonable minimum rates for legal services. Conventional minimum fee schedules are obviously but an expedient compromise of conflicting judgments on each individual piece of the jig-saw puzzle that is the legal rate structure in each community within the State.

The results of this survey suggest that a general time approach may provide an avenue to the solution of the minima and maxima pricing problems of the legal profession—a solution which is both economically and ethically defensible. This solution, however, the profession must find for itself.

Further support for these conclusions is supplied by the survey data contained in Tables 35, 36, and 37. Table 35 shows the distribution of average charges per hour for office work reported by Louisiana practitioners in 1958. Here again it is obvious that per hour rates reported are converted at least in part from charges computed on other bases. The most widely used per diem rate in 1958, according to survey data, was $10-$14 per hour; 28 per cent of all practitioners, 35 per cent of all sole practitioners, 26 per cent of the group practitioners, and 23 per cent of the partners reported this average per hour charge for office work. Another 20 per cent of all practitioners reported an average per hour charge of $15-$19; 16 per cent reported charges that fell in the $20-$24 bracket; 13 per cent reported an average charge of $5-$9; and 3 per cent reported average per hour charges of $50 or more. The median bracket for sole practitioners was $10-$14, for group practitioners, $15-$19, and for partners, $20-$24. It should be noted, however, that in this case the higher rates reported by group practitioners and partners may in part be explained by the added overhead of larger staffs. In turn, the larger staffs of the group or partnership should be more productive and the charge to the client need not be any greater.

Table 36 relates average charges per hour for office work to community size. In each community size, with the exception of the 10,001-50,000 population group, the largest percentage of practitioners reported rates which fell into the $10-$14 bracket; in the case of the 10,001-50,000 group, 28 per cent of the practitioners reported charges in the $10-$14 bracket and 28 per cent reported charges in the $15-$19 bracket. Sixty-two per cent of all practitioners in the 10,001-50,000 group reported rates of $15 or more per hour; the same ratios for the other population groups were 63 per cent for the 50,001-200,000 group, 60 per cent for New Orleans, 41 per cent for the 2,001-10,000 group, and 27 per cent for communities of un-

der 2,000 people. The median bracket for communities of under 2,000 and the 2,001-10,000 group was $10-$14; the median bracket for the other three population groups was $15-$19.

Table 37 relates average per hour charges for office work to net incomes from practice, by income bracket. As in Table 34 which shows average per diem charges for court appearances, there is a clear direct correlation between the size of the rate and the size of the income. Among the more frequently reported rates were $10 and $15 per hour. If for purposes of rough analysis these rates are converted into average chargeable working days of 6-1/2 hours per day, we get per diem rates for office work of $65 and $97.50 per day. This range is significantly below the median per diem bracket of $100-$124 for court appearances. It cannot and should not be done in this study, but the reasons for this differential would seem to bear further examination by the profession. The time approach to the pricing of legal services could provide a means of eliminating such discrepancies, if no logical reason for them exists. If there is a logical reason, it could be found.

Another factor which has a very important bearing upon the size of the lawyer's income and also upon the size of the fees he charges is the average number of chargeable hours in his normal working day. This figure will of course, vary with a number of factors. For the young lawyer or the less successful lawyer it is controlled by the amount of business he receives or can generate without breaching the lawyer's code of ethics with respect to advertising. This sometimes presents a problem, particularly for the young lawyer without family or personal contacts. The lawyer cannot advertise through normal commercial channels so he usually must become a joiner. He must sell himself through his personal contacts with people who are his potential source of clients.

For the experienced and successful lawyer, the average number of chargeable hours in the normal working day is controlled by other factors: the energy, efficiency and work habits of the individual practitioner; the size of income and desire for increased income on the part of the individual, the profit motive; the type of practice, the average working day of the criminal lawyer will differ from that of the corporate attorney; the size of the attorney's staff, if any; the amount of time devoted to civic activities; etc. For all of these reasons wide variations must be expected, but what is the length of the average working day for Louisiana practitioners?

Survey data contained in Table 38 show that the largest percentage of practitioners reported 6 or 6 and a fraction chargeable hours in their normal working day; this was also the median bracket for all practitioners, regardless of form of organization of practice. An additional 12 per cent of all practitioners reported 7 or 7 and a fraction chargeable hours per working day; 21 per cent reported 8 and a fraction chargeable hours;

and another 12 per cent reported 9 or more chargeable hours in their normal working day. In the other direction, 16 per cent reported 5 and a fraction chargeable hours per day; 8 per cent reported 4 and a fraction chargeable hours, and the other 6 per cent reported less than 4 chargeable hours in their normal working day. No sharp variation in the pattern of distribution was apparent as between sole practitioners, group practitioners, and partners.

Table 39 relates average number of chargeable hours in the normal working day, by bracket, to incomes from practice of Louisiana lawyers, by income size bracket. These data would appear to reveal what must be considered a partially fortuitous direct correlation between number of chargeable hours and size of income from practice, that is, fortuitous insofar as the legal pricing system is intentionally related directly to chargeable hours of work. If there is, as would appear to be the case and as should be expected, a clear direct relationship between chargeable hours of work and the size of income of Louisiana practitioners, then this fact would seem to constitute a strong argument in favor of a time approach to the lawyer's pricing problem, as a policy matter within the profession.

Some types of fees for legal service are related by conventional pricing practice to the time element. Perhaps the most important such examples are the conventional per diem charge for appearances before administrative boards of government and the conventional per diem charge for certain types of court appearances. Examination of data pertaining to such charges may offer further insight into the lawyer's pricing and income problem.

Table 40 shows the distribution of average per diem charges for appearances before administrative boards by form of organization of practice and size of average per diem charge. The per diem charges reported most frequently by sole practitioners, group practitioners, and partners in 1958 were in the $100-$124 per day bracket. This was also the median bracket for sole practitioners and partners; the median bracket for group practitioners was $75-$99 per day. The other popular rate brackets were $50-$74 and $150-$174. Thirty-two per cent of all practitioners reported that their charges fell in the $100-$124 bracket with the $100 rate probably the most frequently used; 24 per cent reported charges that fell in the $50-$74 bracket; and 18 per cent reported charges in the $150-$174 range. Three per cent of all respondents reported per diem charges of $250 or more and 2 per cent reported charges of less than $25 per day. Rates of $50-$74 were reported by sole practitioners and group practitioners almost as frequently as $100-$124 rates and only 13 per cent of the sole practitioners and 20 per cent of the group practitioners reported rates above $124 per day. On the other hand, the second most popular rate bracket with members of partnerships was $150-$174, and 43 per cent of all partners reported rates above $124.

Similar data showing the distribution of per diem charges for

court appearances reveal a parallel pattern. Median brackets are $100-$124 for sole practitioners and partners and $75-$99 for group practitioners. Thirty-five per cent of all practitioners reported rates in the $100-$124 bracket; 18 per cent reported rates in the $50-$74 bracket; and 17 per cent reported rates in the $150-$174 bracket. Only 15 per cent of the sole practitioners charged rates of $125 or more, but 21 per cent of the group practitioners and 47 per cent of the partners reported rates of $125 or more per day. (See Table 41.)

Tables 42 and 43 show the distribution of average per diem charges for appearances before administrative boards and for court appearances broken down by community size. The patterns of distribution in the two tables are similar. Examining more closely the distribution of per diem charges for court appearances in this case, we find that the median bracket for communities of under 2,000 was $50-$74. For all other community sizes, the median bracket was $100-$124. It is significant to note that no practitioners in communities of less than 2,000 people reported rates above the $100-$124 bracket; 11 per cent of the practitioners in the 2,001-10,000 population group reported rates of $125 or above; 36 per cent in the 10,001-50,000 group reported such rates; 42 per cent in the 50,001-200,000 group reported rates in excess of $124 per day; but only 31 per cent of the practitioners in New Orleans reported rates of $125 or above. It is also interesting that 23 per cent of the New Orleans practitioners reported rates of $50-$74 as opposed to 7 per cent for the 50,001-200,000 group and 14 per cent for the 10,001-50,000.

Tables 34 and 37 show the direct correlation that exists between the magnitude of rates, converted to time dimensions, and the size of income from practice. All respondents reporting incomes from practice in excess of $50,000 per year charged rates per hour for office work of between $20 and $44 per hour. Converted into median working days of 6-1/2 hours the corresponding per diem rates for office work ranged from $130 per day to $288 per day. Sixty-three per cent or more of the respondents reporting incomes from practice of $20,000 or more reported the use of per hour charges for office work of $20 or more (Table 37).

ANNUAL MEETING

It's not too early to begin making plans to attend the LSBA Annual Meeting, to be held May 5-7, 1960, in Biloxi.

In addition to the regular official business sessions, the meeting will include a full program of interesting addresses by prominent attorneys and informative panel sessions presented by various sections and committees.

Other highlights of the program will include induction of the 1960-61 officers and members of the Board of Governors and presentation of the annual press awards for outstanding presentation of news material pertaining to law and the legal profession.

In addition, there will be a full and varied program of entertainment for ladies attending the meeting.

TABLE 34

ALL PRACTITIONERS

Distribution of Net Income from Practice by Size of Average Per Diem Charge for Court Appearances and Income Size Bracket
1957

Size of Average Per Diem Charge for Court Appearances	Income Size Bracket										
	$0-4,999	$5-9,999	$10-14,999	$15-19,999	$20-24,999	$25-29,999	$30-39,999	$40-49,999	$50-74,999	$75,000+	Total
						(Per Cent)					
$0-24	33	67									100
$25-49	21	53	11	11			5				100
$50-74	23	50	16	5	5	2					100
$75-99	11	29	37	14	9						100
$100-124	11	32	30	15	5	3	3	1			100
$125-149	23	23	15	15	8		8	8			100
$150-174	5	14	25	22	10	10	8	5	2		100
$175-199		67	33								100
$200-224	4	9	9	17	9	13	9	13	13	4	100
$225-249											
$250+				10	60		20	10			100
Total	13	31	23	14	8	4	4	3	1		100
$0-24	2	2									1
$25-49	9	10	3	4			8				6
$50-74	33	30	13	6	11	8					18
$75-99	9	10	16	11	11						10
$100-124	30	35	43	36	22	23	23	11			33
$125-149	7	3	3	4	4		8	11			4
$150-174	7	8	19	28	22	46	31	33	25		17
$175-199		2	1								1
$200-224	2	2	3	9	7	23	15	33	75	100	7
$225-249											
$250+				2	22		15	11			3
Total	100	100	100	100	100	100	100	100	100	100	100

Note: Percentages do not always total exactly 100 because of rounding.

TABLE 35

ALL PRACTITIONERS

Distribution of Average Charges Per Hour for Office Work
by Form of Organization of Practice and Size of Average Charge Per Hour
1958

Form of Organization of Practice	Size of Average Charge Per Hour										
	$0-4	$5-9	$10-14	$15-19	$20-24	$25-29	$30-34	$35-39	$40-44	$45-49	$50+	Total
	(Per Cent)											
Sole Practitioner	3	21	35	18	11	6	2		1		4	100
Group	4	14	26	25	19	11			2			100
Partnership		7	23	20	18	16	7	2	3		4	100
All Practitioners	2	13	28	20	16	11	4	1	2		3	100
Sole Practitioner	60	56	45	32	25	17	17		17		40	37
Group	40	20	18	23	23	17			17			19
Partnership		24	38	45	52	66	83	100	67		60	43
All Practitioners	100	100	100	100	100	100	100	100	100		100	100

Note: Percentages do not always total exactly 100 because of rounding.

TABLE 36

ALL PRACTITIONERS

Distribution of Average Charges Per Hour for Office Work
by Community Size and Size of Average Charge Per Hour
1958

Community Size	Size of Average Charge Per Hour											
	$0-4	$5-9	$10-14	$15-19	$20-24	$25-29	$30-34	$35-39	$40-44	$45-49	50+	Total
						(Per Cent)						
0-2,000		27	45	9	9		9					100
2,001-10,000	6	15	37	19	10	8	2				2	100
10,001-50,000		11	28	28	20	9	4				1	100
50,001-200,000		12	24	20	17	15	3	1	2		5	100
New Orleans	2	15	23	16	14	13	5	2	5		5	100
Total	2	13	28	20	16	11	4	1	2		3	100
0-2,000		7	6	2	2		8					4
2,0001-10,000	60	17	21	15	10	11	8				10	16
10,001-50,000		20	25	34	31	20	25				10	23
50,001-200,000		24	25	27	31	37	25	33	33		40	25
New Orleans	40	32	24	23	25	31	33	67	67		40	32
Total	100	100	100	100	100	100	100	100	100		100	100

TABLE 37

ALL PRACTITIONERS

Distribution of Net Incomes from Practice by Size of Average Charge Per Hour for Office Work and Income Size Bracket
1957

Size of Average Charge Per Hour For Office Work	Income Size Bracket										
	$0-4,999	$5-9,999	$10-14,999	$15-19,999	$20-24,999	$25-29,999	$30-39,999	$40-49,999	$50-74,999	$75,000+	Total
	(Per Cent)										
$0-4	20	80									100
$5-9	28	44	18	8	3						100
$10-14	21	41	17	14	6			1			100
$15-19	12	17	33	27	5	3	3				100
$20-24	6	27	20	16	11	2	9	6	2		100
$25-29	6	21	24	12	6	6	9	9	3	3	100
$30-34	8	8	25	17	25	8	8				100
$35-39				33	33				33		100
$40-44					33		17	17	17	17	100
$45-49											
$50+		22	33		22	22					100
Total	14	29	22	15	8	3	4	3	1	1	100
$0-4	2	5									2
$5-9	26	20	11	7	4						13
$10-14	40	38	22	25	21			13			28
$15-19	17	12	31	36	12	25	18				20
$20-24	7	14	14	16	21	13	36	38	25		15
$25-29	5	8	13	9	8	25	27	38	25	50	11
$30-34	2	1	5	5	12	13	9				4
$35-39				2	4				25		1
$40-44					8		9	13	25	50	2
$45-49											
$50+		2	5		8	25					3
Total	100	100	100	100	100	100	100	100	100	100	100

Note: Percentages do not always total exactly 100 because of rounding.

TABLE 38

ALL PRACTITIONERS

Distribution of Average Number of Chargeable Hours in the Lawyer's Working Day
by Form of Organization of Practice and Average Number of Chargeable Hours
1958

Form of Organization of Practice	Average Number of Chargeable Hours (In Hours and Minutes)											
	0-0:59	1-1:59	2-2:59	3-3:59	4-4:59	5-5:59	6-6:59	7-7:59	8-8:59	9-9:59	10+	Total
	(Per Cent)											
Sole Practitioner	1	1	3	2	8	14	22	12	22	3	11	100
Group			4	8	7	17	26	10	17	7	6	100
Partnership	1	1		1	9	16	28	13	22	4	6	100
All Practitioners		1	2	3	8	16	25	12	21	4	8	100
Sole Practitioner	50	67	50	27	35	31	30	35	38	28	52	37
Group			50	64	18	24	22	18	18	33	16	23
Partnership	50	33		9	47	45	48	47	44	39	32	43
All Practitioners	100	100	100	100	100	100	100	100	100	100	100	100

Note: Percentages do not always total exactly 100 because of rounding.

TABLE 39

ALL PRACTITIONERS

Distribution of Net Income from Practice
by Income Size Bracket and Average Number of Chargeable Hours in the Lawyer's Working Day
1957

Income Size Bracket	Average Number of Chargeable Hours (In Hours and Minutes)											
	0-0:59	1-1:59	2-2:59	3-3:59	4-4:59	5-5:59	6-6:59	7-7:59	8-8:59	9-9:59	10+	Total
	(Per Cent)											
$0-4,999	2	2	6	6	15	15	24	11	15	4	2	100
$5-9,999		1	3	3	8	20	20	11	21	4	8	100
$10-14,999				5	9	14	27	8	21	6	9	100
$15-19,999					6	8	47	14	22		2	100
$20-24,999					3	20	17	14	26	9	11	100
$25-29,999	8	8			15	15	8	23	15		8	100
$30-39,999						7	20	20	27		27	100
$40-49,999					11		22	22	33	11		100
$50-74,999							50	17	17	17		100
$75,000+							50				50	100
Total	1	1	2	3	8	15	26	12	21	4	8	100
$0-4,999	50	33	50	30	24	14	13	12	10	12	3	14
$5-9,999		33	50	30	30	42	25	29	32	29	33	31
$10-14,999				40	24	20	23	15	22	29	27	222
$15-19,999					9	7	23	15	13		3	13
$20-24,999					3	12	6	10	11	18	13	9
$25-29,999	50	33			6	3	1	6	2		3	3
$30-39,999						2	3	6	5		13	4
$40-49,999					3		2	4	4	6		2
$50-74,999							3	2	2	6		2
$75,000+							1				3	1
Total	100	100	100	100	100	100	100	100	100	100	100	100

Note: Percentages do not always total exactly 100 because of rounding.

Percentages do not always total exactly 100 because of rounding.

TABLE 40

ALL PRACTITIONERS

Distribution of Average Per Diem Charges for Appearances Before Administrative Boards by Form of Organization of Practice and Size of Average Per Diem Charge 1958

Form of Organization of Practice	Size of Average Per Diem Charge										
	$0-24	$25-49	$50-74	$75-99	$100-124	$125-149	$150-174	$175-199	$200-224	$225-249	$250+	Total
	(Per Cent)											
Sole Practitioner	4	5	33	8	36	1	9		2		1	100
Group	2	12	25	13	29	2	12		2		4	100
Partnership		2	17	6	31	4	26	2	6		5	100
All Practitioners	2	5	24	8	32	3	18	1	4		3	100
Sole Practitioner	75	33	45	32	36	14	17		18		11	37
Group	25	50	21	32	18	14	13		9		22	20
Partnership		17	34	36	46	72	70	100	73		67	43
All Practitioners	100	100	100	100	100	100	100	100	100		100	100

Note: Percentages do not always total exactly 100 because of rounding.

TABLE 41

ALL PRACTITIONERS

Distribution of Average Per Diem Charges for Court Appearances
by Form of Organization of Practice and Size of Average Per Diem Charge
1958

Form of Organization of Practice	Size of Average Per Diem Charge											
	$0-24	$25-49	$50-74	$75-99	$100-124	$125-149	$150-174	$175-199	$200-224	$225-249	$250+	Total
	(Per Cent)											
Sole Practitioner	2	10	26	7	41	1	8		5		1	100
Group	3	7	25	16	27	3	16	1			1	100
Partnership		1	9	9	33	7	24	1	10		5	100
All Practitioners	1	6	18	10	35	4	17	1	6		3	100
Sole Practitioner	50	65	50	25	41	7	16		26		10	37
Group	50	25	27	33	16	14	20	33			10	20
Partnership		10	23	42	43	79	64	67	74		80	43
All Practitioners	100	100	100	100	100	100	100	100	100		100	100

Note: Percentages do not always total exactly 100 because of rounding.

TABLE 42

TABLE 42

ALL PRACTITIONERS

Distribution of Average Per Diem Charges for Appearances Before Administrative Boards
by Community Size and Size of Average Per Diem Charge
1958

Community Size	Size of Average Per Diem Charge											
	$0-24	$25-49	$50-74	$75-99	$100-124	$125-149	$150-174	$175-199	$200-224	$225-249	$250+	Total
	(Per Cent)											
0-2,000			43	29	29							100
2,001-10,000	3		35	13	35	3	10		3			100
10,001-50,000		4	14	3	48	1	20		7		1	100
50,001-200,000	3	6	15	7	34	3	28	3	1		4	100
New Orleans	1	7	33	11	17	4	13	1	5		7	100
Total	2	5	24	8	32	3	18	1	4		3	100
0-2,000			5	9	2							4
2,001-10,000	25		23	23	16	14	9		9			16
10,001-50,000		25	16	9	39	14	30		45		11	23
50,001-200,000	50	33	16	23	27	29	40	67	9		33	25
New Orleans	25	42	40	36	15	43	21	33	36		55	32
Total	100	100	100	100	100	100	100	100	100		100	100

Note: Percentages do not always total exactly 100 because of rounding.

TABLE 43

ALL PRACTITIONERS

Distribution of Average Per Diem Charges for Court Appearances
by Community Size and Size of Average Per Diem Charge
1958

Community Size	Size of Average Per Diem Charge											
	$0-24	$25-49	$50-74	$75-99	$100-124	$125-149	$150-174	$175-199	$200-224	$225-249	$250+	Total
	(Per Cent)											
0-2,000	8	8	42	17	25							100
2,001-10,000		5	29	11	44	3	6				2	100
10,001-50,000		3	14	10	37	6	22		6		2	100
50,001-200,000	1	8	7	7	34	4	23	1	12		2	100
New Orleans	2	5	23	11	29	3	15	2	6		5	100
Total	1	6	18	10	35	4	17	1	6		3	100
0-2,000	25	5	8	6	2							4
2,001-10,000		15	27	19	21	14	7				10	16
10,001-50,000		15	20	25	26	36	33		22		20	23
50,001-200,000	25	40	11	19	26	29	36	33	52		20	25
New Orleans	50	25	35	31	24	21	25	67	26		50	32
Total	100	100	100	100	100	100	100	100	100		100	100

Note: Percentages do not always total exactly 100 because of rounding.

Note: Percentages do not always total exactly 100 because of rounding.